

No FEAR Act
ANNUAL REPORT
FISCAL YEAR 2019



U.S. Department of Agriculture

USDA Civil Rights Policy

The hallmark of my tenure as Secretary of the U.S. Department of Agriculture (USDA) is to do right and feed everyone and I don't intend for that to be just a hollow creed. This pledge is at the heart of our work, which includes our commitment to protecting the civil rights of all USDA employees and customers.

Doing right means treating all people equally, regardless of race, religion, gender, national origin, or any other characteristic. We are part of the same human family, imbued with dignity and worthy of respect. I expect every USDA employee to foster a workplace free from discrimination, harassment, and retaliation so everyone can reach his or her full potential. Our workplace will be a model for proper enforcement of civil rights protections, not only because it's the law, but also because it's the right thing to do.

Feeding everyone means it doesn't matter what you look like or where you come from, USDA programs are for you. Hunger knows no color or creed. Whether we are responding to disasters with food aid, cultivating sustainable agriculture programs overseas, or improving school meals here at home, at USDA we know food has the power to unite.

When you start with a simple expression of integrity and equality, upholding civil rights and all the freedoms enshrined in our laws is not just compulsory, it becomes intrinsic. For that reason and working together, we will continue to return to our touchstone: Do right ... by everyone ... and feed everyone.

Sonny Perdue
Secretary

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Annual Reporting Requirements

The Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002 (No FEAR Act), Public Law No. 107-174, Section 203 mandates that Federal Agencies report certain information for each fiscal year (FY). This report contains the:

- number of complaints filed with USDA alleging discrimination based on race, color, religion, national origin, sex, disability, genetics, age, reprisal, and violations of whistleblower protection laws;
- amount of money USDA has reimbursed to the Judgment Fund in accordance with the No FEAR Act;
- aggregate amount USDA has reimbursed to the Judgment Fund that is attributable to the payment of attorney's fees;
- USDA policies relating to disciplinary actions to be taken against employees who have violated anti-discrimination or whistleblower laws or engaged in prohibited personnel practices;
- number of employees USDA has disciplined for discrimination, retaliation, harassment, or prohibited personnel practices;
- number of cases in Federal Court arising under the anti-discrimination and whistleblower protection laws; and
- statistical data USDA is required to post on its public website.

In addition, the No FEAR Act requires that USDA provide an analysis of the information submitted in the report, including: (1) an examination of trends; (2) causal analysis; (3) practical knowledge gained through experience; and (4) actions planned or taken to improve its complaint or civil rights programs and procedures. USDA is also required to report any ascertainable adjustments made in its budget as a result of its compliance with the reimbursement requirement.

Executive Summary

USDA's FY 2019 No FEAR Report is the fifteenth report submitted pursuant to the Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002 (No FEAR Act), Public Law No. 107-174, Section 203. The No FEAR Act Report demonstrates key accomplishments for USDA during FY 2019 to reduce anti-discrimination and retaliation, increase accountability, emphasize training for managers in the management of a diverse workforce, and encourage dispute resolution and employee communication skills.

As demonstrated in the report, key accomplishments in line with the requirements of the No FEAR Act and the Secretary's Civil Rights objectives consist of the following:

- USDA experienced a decrease of 86 equal employment opportunity (EEO) complaints filed in FY 2019 as compared to FY 2018. In addition, the number of filers decreased by 83 in 2019 as compared to the previous fiscal year.
- The number of findings of discrimination increased by two (2) in FY 2019 as compared to FY 2018. Data illustrating this trend can be found in Appendix A.
- A review of disciplinary actions taken against employees who violated Federal anti-discrimination laws and whistleblower protection statutes shows that in FY 2019 there were 3 disciplinary actions (See Part III: Table 9 Disciplinary Actions) taken against employees, as compared to 14 disciplinary actions taken against employees in FY 2018. The decrease in disciplinary actions between FY 2018 and FY 2019 resulted from the continuation of USDA's Equal Opportunity Accountability initiative, which has strengthened procedures that measure and evaluate both organizational and individual accountability in providing fair and equitable treatment for all USDA employees. The reimbursement provisions of the No FEAR Act continue to result in financial accountability for sub-agencies and individual staff offices within USDA.

In addition, during FY 2019 USDA, through its Office of the Assistant Secretary for Civil Rights (OASCR), implemented the following initiatives to reduce the number of EEO complaints:

- Processed 393 investigations in FY 2019, an (18%) increase, as compared to 360 investigations processed in FY 2018.
- Monitored the sufficiency of one settlement agreement as well as the compliance efforts across the Department by providing oversight and guidance to 16 USDA agencies.
- Processed 394 formal complaints of discrimination in FY 2019 at the intake stage with an average processing time of 18 days for acceptance or dismissal determinations.
- Continued managing the Civil Rights Enterprise System to meet the annual assessment and authorization requirements established by USDA's Office of Chief Information Officer.

- OASCR collaborated with Office of Human Resources Management and revised USDA's Reasonable Accommodation (RA) Procedures in accordance with the Equal Employment Opportunity Commission (EEOC) regulation, 29 CFR § 16.14.203(d)(3). The procedures included USDA's personal assistance services (PAS) and will be posted on the website in accordance with EEOC's revised Section 501 of the Rehabilitation Act of 1973.
- In alignment with the Secretary's goal of OneUSDA, OASCR partnered with the Mission Areas, agencies and staff offices to revise the Agency's Anti-harassment (AH) policy to incorporate EEOC's requirements. A work group was established to develop the Departmental Regulation (DR) which establishes USDA's AH Program. The DR is projected to clear the department in FY 2020.
- OASCR conducted a OneUSDA barrier analysis and Civil Rights Impact Analysis (CRIA) workshop to enhance technical competencies and increase quality of quantitative analyses.
- OASCR established a Farm Bill Committee to review civil rights related Farm Bill provisions and undertook actions to enhance OneUSDA Civil Rights business operations and program management. Specifically,
 - A comprehensive Civil Rights guidebook was developed to educate internal and external stakeholders;
 - A Workgroup was formulated to implement the 2018 Farm Bill mandate regarding utilizing CRIA. The Group began developing a CRIA guidebook which provides formulas for calculating adverse and disproportionate impacts;
 - Barrier analysis and elimination training was conducted for mission area/agency employees; and
 - An inaugural American Diversity Month program was sponsored to showcase the diverse fabric of American society and contributions to the American diaspora.
- Completed 100 percent conversions of complaint case records from paper to electronic format. This effort resulted in a savings of \$9,937.20 in annual operating costs.
- Conducted two workshops, to address a OneUSDA approach to conducting barrier analysis, disproportionate and adverse impact analysis, as well as a CRIA to enhance technical competencies and increase the quality of quantitative analyses.
- Established the OneUSDA Anti-harassment Workgroup to address the EEOC's requirements for all Federal Agencies as set forth in and monitored through the MD 715 Annual Report. This workgroup addresses the need for USDA to establish and implement an Anti-harassment Program.
- Established the OneUSDA Compliance DR Workgroup, to revise USDA's Compliance Departmental Regulation and implement a OneUSDA process and review system for compliance reviews.

- Established a OneUSDA EEO workgroup who identified and made recommendations to improve the efficiency and effectiveness of the EEO process.

USDA's decrease in the number of complaints filed, disciplinary actions taken against employees who violated Federal anti-discrimination laws and whistleblower protection statutes and proactive employment initiatives demonstrates its commitment to ensuring that employees who pursue claims under the federal administrative equal employment opportunity (EEO) complaint process and who engage in whistleblower activities are protected and are not retaliated against.

PART I:
USDA Formal EEO Complaints
for
Fiscal Years 2018 – 2019

Section A— Number of Formal EEO Complaints and Filers at USDA

Introduction

This section contains comparative information regarding the number of formal EEO complaints filed and the number of filers for FYs 2018 and 2019.

Summary of Data

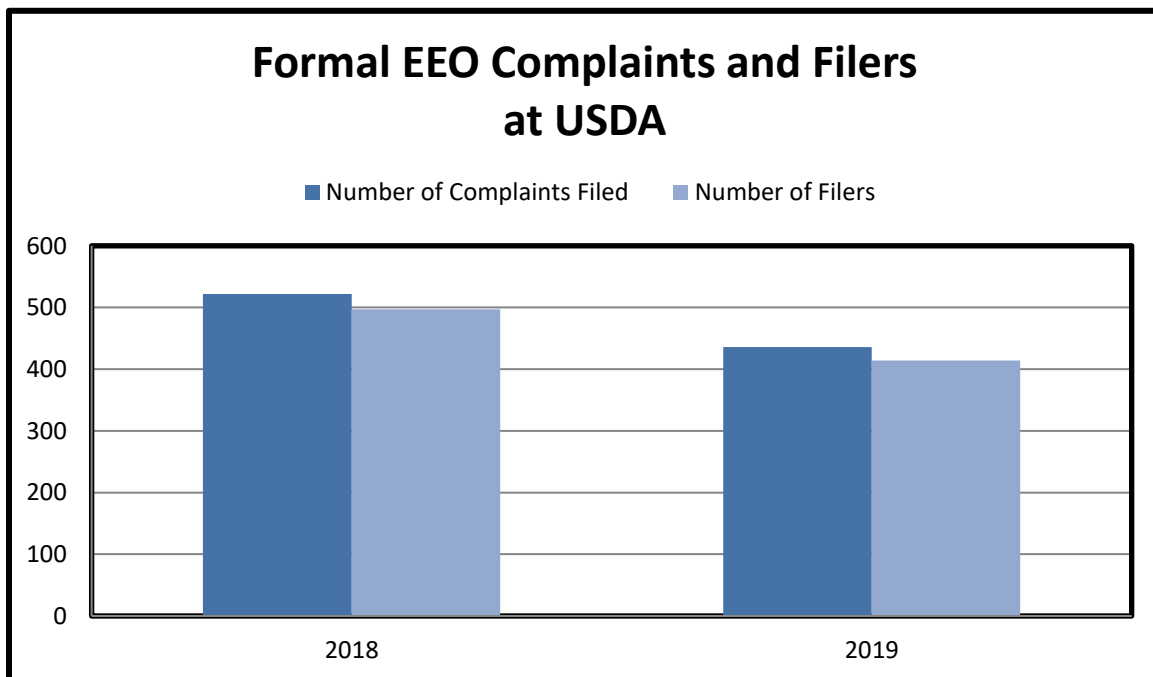
Table 1 below indicates the number of formal EEO complaints filed with USDA by fiscal year and the number of individuals who filed complaints. It shows a decrease in the number of complaints filed and the number of filers over the prior year (See Graph 1).

In FY 2019, 436 complaints were filed as compared to 522 in FY 2018. This represents a 16 percent decrease in complaints filed. Additionally, the number of filers in FY 2019 was 414 and in FY 2018 there were 497 filers. This represents a 17 percent decrease in the number of filers.

Table 1
Number of Formal EEO Complaints and Number of Filers at USDA

Fiscal Years	Number of Complaints Filed	Number of Filers
2018	522	497
2019	436	414

Graph 1
Formal EEO Complaints and Filers at USDA



Section B—Most Frequently Cited Bases in Formal EEO Complaints at USDA

Introduction

This section contains information on the most frequently cited bases in formal EEO complaints for FY 2018 and FY 2019. The basis of the complaint is the protected characteristic the complainant alleges which formed the motivation for the discriminatory conduct. The bases protected by EEO statutes are race, color, religion, national origin, sex, disability, genetics, age and retaliation (for participating in the EEO complaint process or for opposing practices made illegal under the EEO laws). A complaint brought under the Equal Pay Act of 1963, as amended, is considered to be a complaint based on sex.

Summary of Data

Table 2 provides data on all bases alleged in formal EEO complaints filed with USDA. Of all bases, the four most frequently cited in formal EEO complaints filed in FY 2019 are: (1) retaliation; (2) race; (3) sex; and (4) disability. In FY 2018, the four most frequently cited bases were: (1) retaliation; (2) sex; (3) race; and (4) disability. These four bases are illustrated in Graph 2, which shows the two-year trend.

Complaints Alleging Retaliation

Retaliation was the most frequently alleged basis in formal EEO complaints at USDA for both FYs 2019 and 2018. In FY 2019, 41 percent of complaints cited retaliation as a basis as compared to 40 percent cited in FY 2018.

Complaints Alleging Race Discrimination

Race was the second most frequently alleged basis in formal EEO complaints at USDA in FY 2019. In FY 2019, 55 percent of complaints cited race as a basis as compared to 59 percent cited in FY 2018.

Complaints Alleging Sex Discrimination

Sex was the third most frequently alleged basis in formal EEO complaints at USDA in FY 2019. In FY 2019, 61 percent of complaints cited sex as a basis compared to 56 percent cited in FY 2018.

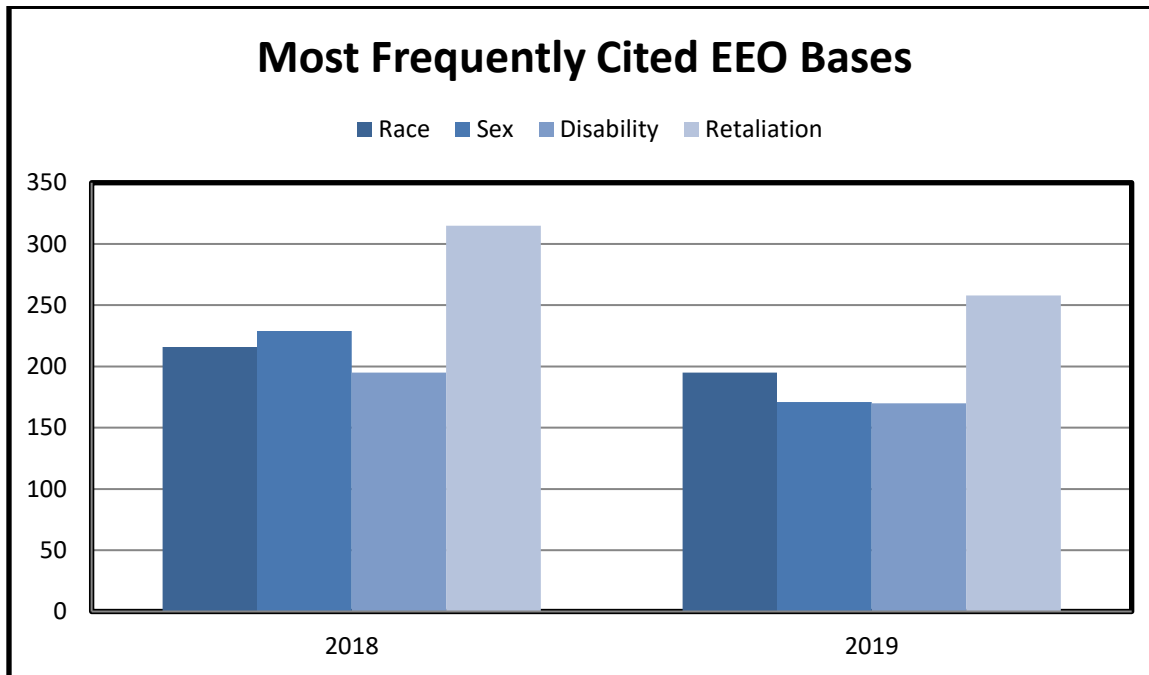
Complaints Alleging Disability Discrimination

Disability was the fourth most frequently alleged basis in formal EEO complaints at USDA for both FYs 2019 and 2018. In FY 2019, 61 percent of complaints cited disability as a basis compared to 63 percent cited in FY 2018.

Table 2
Most Frequently Cited EEO Bases in Formal EEO Complaints at USDA

Frequency of EEO Bases in Formal EEO Complaints									
Year	Race	Color	Religion	Sex	National Origin	Disability	Age	Retaliation	Other ¹
2018	216	85	28	229	68	195	155	315	40
2019	195	93	35	171	58	170	157	258	37

Graph 2
Most Frequently Cited Bases



¹ Other USDA protected bases include color, national origin, age, and Non-EEO. Additionally, the basis of sex includes gender identity and expression.

Section C—Most Frequently Cited Issues in Formal EEO Complaints at USDA

Introduction

This section contains information regarding the most frequently cited issues in formal EEO complaints for FYs 2018 and 2019. The No FEAR Act requires Federal Agencies to post data regarding the nature of the issues raised in EEO complaints. The issue of a complaint is the specific subject matter about which the individual is complaining or the alleged discriminatory incident for which the individual is seeking redress. Table 3 contains a list of issues most commonly raised in complaints. The “Other” category captures all issues not specifically listed.

Summary of Data

Table 3 provides the most frequently cited issues in formal EEO complaints filed with USDA. The three EEO issues most frequently cited in FY 2019 were: (1) Harassment; (2) Terms/Condition of Employment; and (3) Disciplinary Action. In FY 2018, the three EEO issues most frequently cited were: (1) Harassment; (2) Terms/Condition of Employment; and (3) Promotion/Non-selection. Graph 3 shows the trends for these three issues over the two-year reporting period.

Harassment was the most frequently cited issue in formal EEO cases in FY 2019 and FY 2018. In FY 2019 44 percent (245 filings) of complaints cited harassment as an issue as compared to 28 percent (375² filings) cited in FY 2018, indicating a 16 percent increase.

Terms/Condition of Employment was the second most frequently cited issue in formal EEO cases in FY 2019. Forty-seven percent (137 filings) of complaints cited terms/condition of employment as an issue in FY 2019, compared to 74 percent (135 filings) in FY 2018, a 27 percent decrease.

Disciplinary Action³ was the third most frequently cited issue in formal EEO cases in FY 2019. Seventy-five percent (111 filings) of complaints cited disciplinary actions as an issue in FY 2019 as compared to 80 percent (107 complaints) cited in FY 2018, a 5 percent decrease.

² Data reconciliation is conducted on a regular basis; therefore, the number may change.

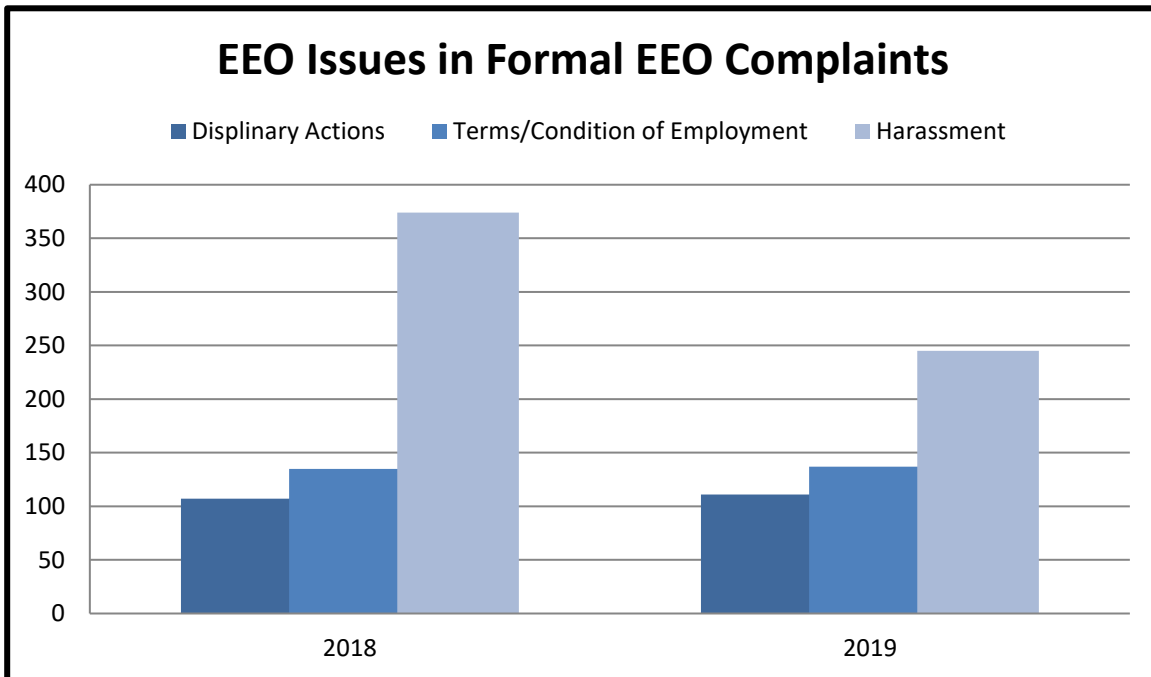
³ Disciplinary Action includes demotion, reprimand, suspension, removal and other,

**Table 3
EEO Issues in Formal EEO Complaints**

EEO Issues in Formal EEO Complaints																					
Year	Appointment/Hire	Assignment of Duties	Awards	Conversions to Full Time	Disciplinary Action	Duty Hours	Performance Evaluation/Appraisal	Examination/Test	Harassment	Medical Examination	Pay/Overtime	Promotion /Non-Selection	Reassignment	Reasonable Accommodation Disability	Reinstatement	Retirement	Termination	Terms and Conditions of Employment	Time and Attendance	Training	*Other
2018	24	82	14	1	107	8	98	1	374	0	11	71	47	94	0	4	35	135	77	45	33
2019	17	72	8	0	111	15	91	1	245	3	13	100	47	75	3	11	27	137	69	30	21

*Other USDA protected issues include Religious Accommodation, Sex Stereotyping, Telework

**Graph 3
EEO Issues in Formal EEO Complaints**



Section D—EEO Processing Stages

Introduction

This section contains data regarding selected stages and associated processing times for formal EEO complaints processed during FYs 2018 and 2019. The formal EEO complaint process has various stages. Not all formal complaints complete all processing stages. These stages are: (1) Investigation (which includes Letter of Acceptance); (2) Final Agency Action with EEOC Hearing; (3) Final Agency Action without EEOC Hearing; and (4) Dismissal. Formal EEO complaints may be withdrawn or settled at any stage and may be dismissed at various stages.

Summary of Data

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

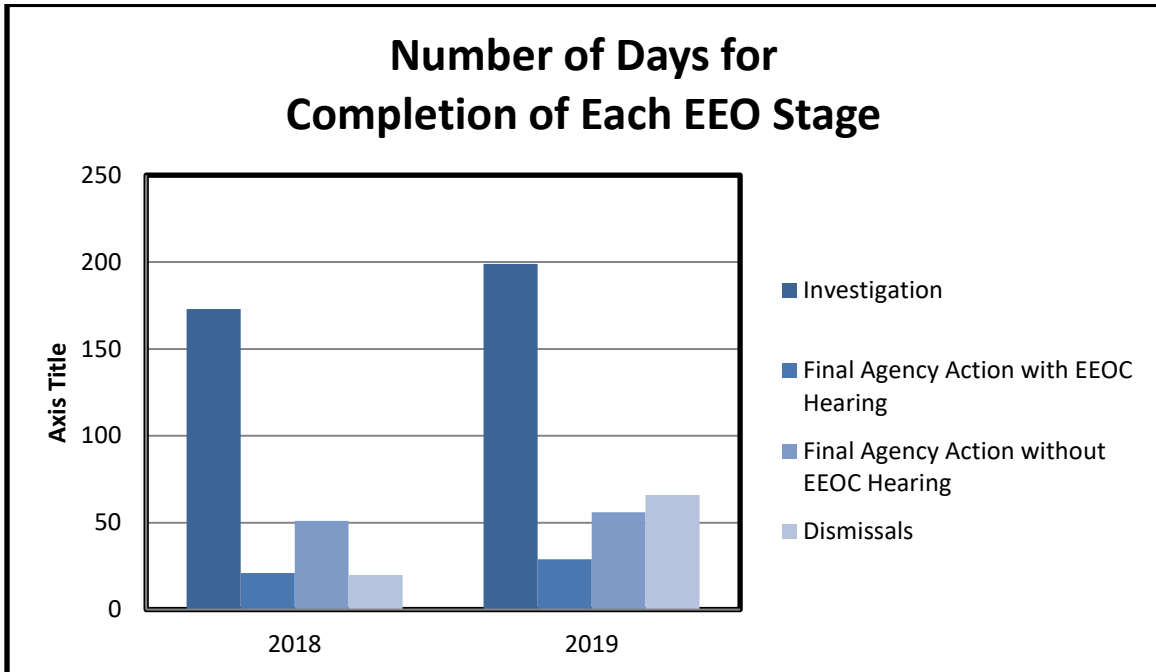
(1) Average Number of Days for Completion of EEO Stages

Table 4 below provides the average number of days for processing a formal EEO complaint at each stage. The data revealed an upward trend (as shown in Graph 4) in the average number of days for dismissals and for all Final Agency Actions with and without an EEOC hearing. There was an upward trend in the average number of days for investigations.

Table 4
Average Number of Days for Completion of Each EEO Stage

Year	Investigation	Final Agency Action with EEOC Hearing	Final Agency Action without EEOC Hearing	Dismissals (pending prior to dismissal)
2018	173	21	51	20
2019	199	29	56	66

Graph 4
The Number of Days for Completion of Each EEO Stage



(2) Pending Complaints at Various Stages

Table 5 below illustrates the number of pending EEO complaints in FYs 2018 and 2019 at each EEO stage.

At the conclusion of each FY, the number of pending investigations remained the same. While the number of EEOC hearings decreased, USDA final agency decisions increased from the number filed in FY2018. In addition, the number of appeals pending at the EEOC at the end of the FY also increased.

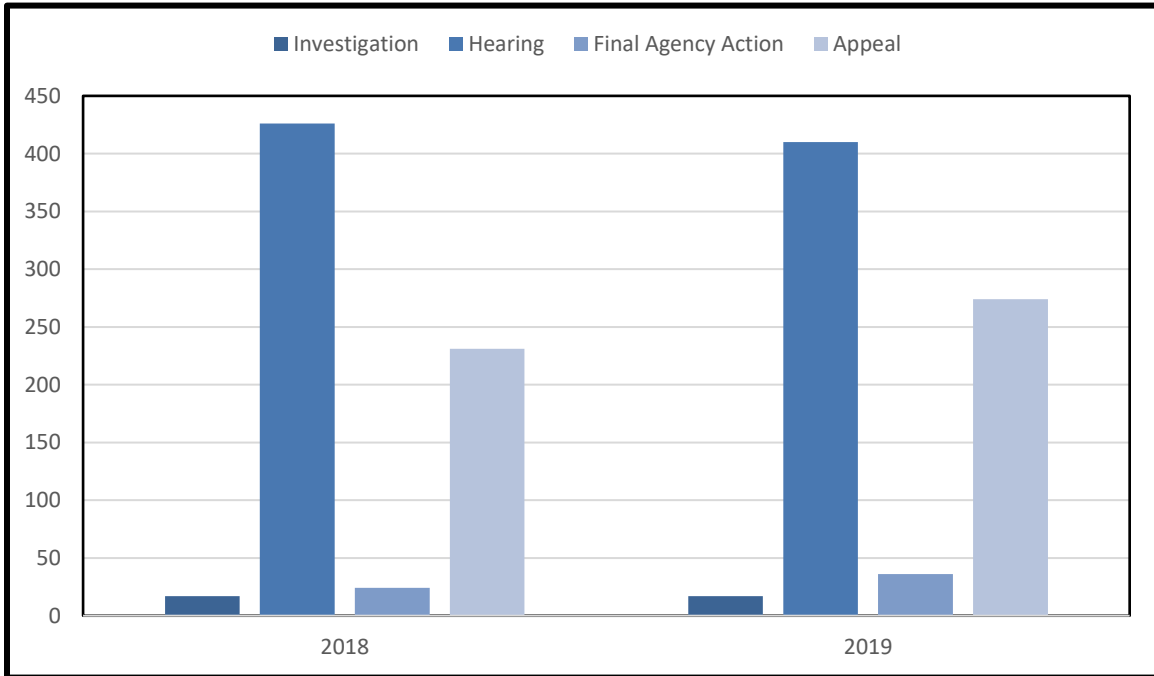
Table 5
Pending EEO Formal Complaints by Stage

Year	Investigation	Hearing	Final Agency Action	Appeal
2018	17	⁴ 426	24	231
2019	17	410	36	274

⁴ Data reconciliation is conducted on a regular basis; therefore, the number may change.

Graph 5 shows a downward trend in pending complaints in the Hearing stage while there was no change in Investigation. In addition, Graph 5 shows an upward trend in pending complaints in two stages: Final Agency Action and Appeal.

**Graph 5
Pending EEO Formal Complaints by Stage**



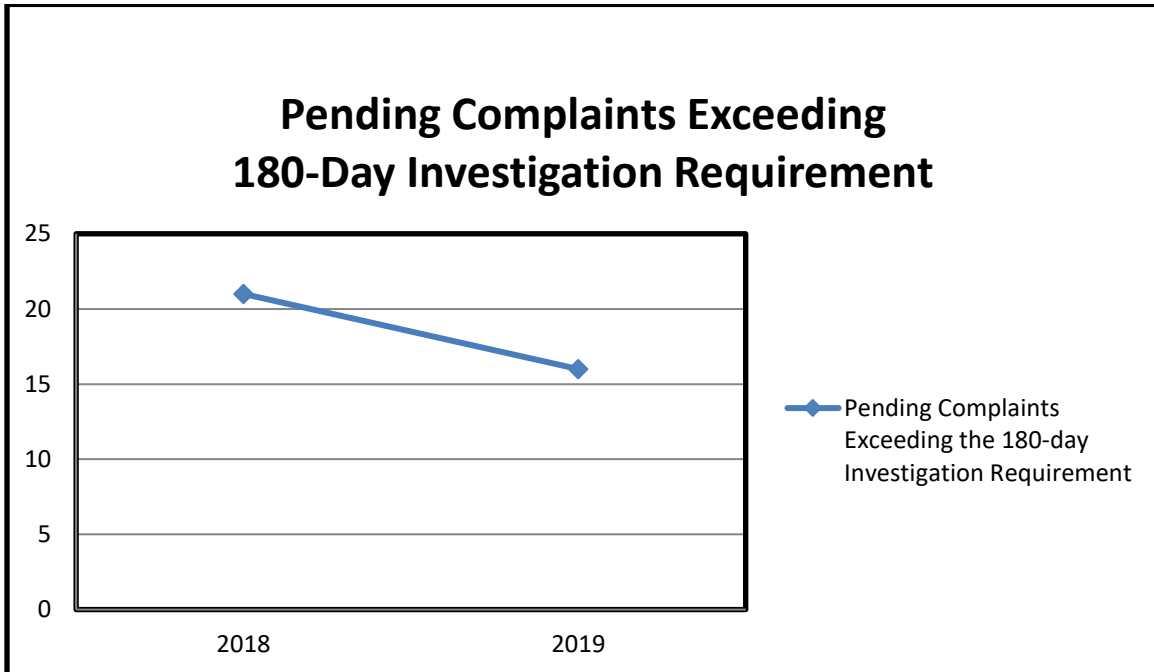
(3) Formal Complaints Exceeding the 180-Day Investigation Requirement

Table 6 and Graph 6 show a decrease of 5 complaints in FY 2019 for formal complaints that exceed the 180-day investigation requirement from FY 2018.

**Table 6
Formal EEO Complaints Exceeding the 180-Day Investigation Requirement**

Complaints Exceeding the 180-day Investigation Requirement	
2018	21
2019	16

Graph 6
Formal EEO Complaints Exceeding 180-Day Investigation Requirement



Section E—Final Agency Actions with a Finding of Discrimination

Introduction

Final Agency Actions involving a finding of discrimination may be issued on the record or following an EEOC Administrative Hearing. The final actions involving a finding of discrimination may include complaints with a variety of bases and issues. The No FEAR Act requires Federal Agencies to post the total number of final actions involving a finding of discrimination, along with the issues and bases for those complaints.

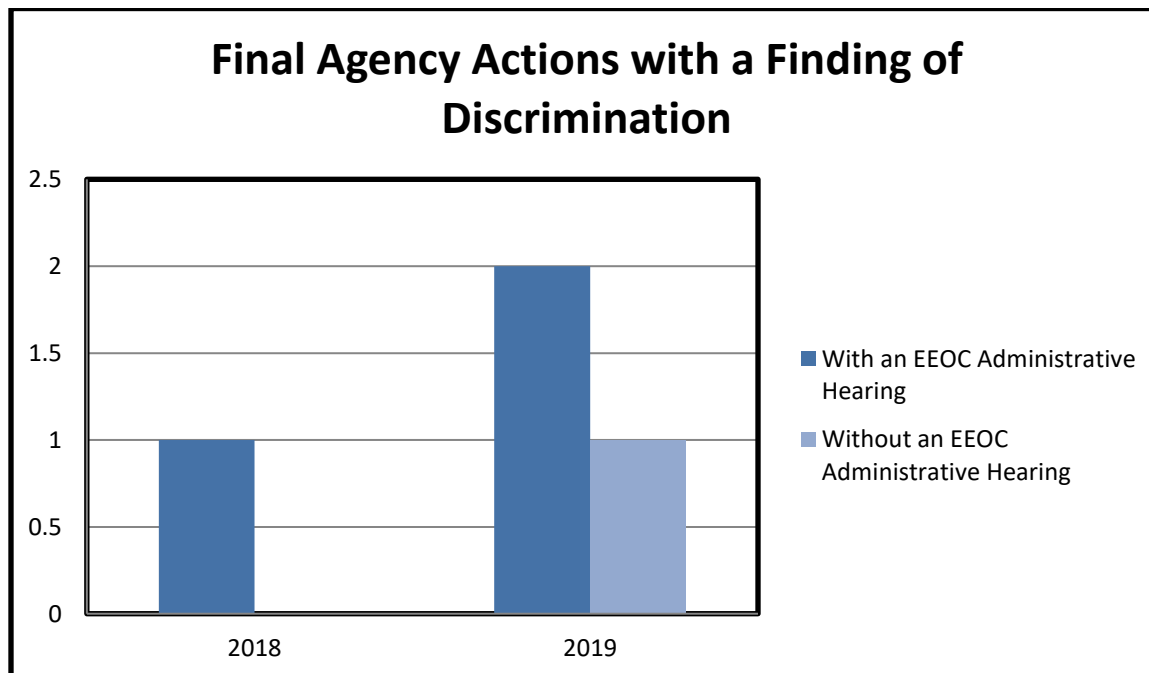
Summary of Data

Table 7 and Graph 7 show that from FY 2018 to FY 2019, the number of findings of discrimination issued with an EEOC Administrative Hearing increased by one, and the number of findings without an EEOC Administrative Hearing increased to one during FY 2019.

Table 7
Final Agency Actions with a Finding of Discrimination

Year	With an EEOC Administrative Hearing	Without an EEOC Administrative Hearing
2018	1	0
2019	2	1

Graph 7
Final Agency Actions with a Finding of Discrimination



Section F—Analysis, Experience, and Actions

Introduction

The No FEAR Act requires: (1) an examination of trends; (2) a causal analysis; (3) practical knowledge gained through experience; and (4) any actions planned or taken to improve USDA's complaint or civil rights programs. The prior sections (Sections A-E) provided an examination of trends. Described below are various observations related to the remaining three areas:

(1) Causal Analysis

USDA and its sub-component agencies identified and reported in FY 2019 the following factors impacting the filing of formal EEO complaints.

- The Agricultural Marketing Service (AMS) reported a four percent increase in the number of complaints filed in FY 2019. Specifically, 22 complaints were filed in FY 2019, compared to 21 in FY 2018. The agency reports the increase is attributed to the decrease in the number of EEO/Civil Rights training sessions.
- The Animal and Plant Health Inspection Service (APHIS) reported a 13 percent decrease in the number of complaints filed in FY 2019. Specifically, 35 complaints were filed in FY 2019, compared to 40 in FY 2018. APHIS attributes the decrease to early engagement by managers and supervisors in addressing employment concerns.
- The Agricultural Research Service (ARS) reported a six percent decrease in the number of complaints filed in FY 2019. Specifically, 15 complaints were filed in FY 2019, compared to 16 in FY 2018. ARS attributes the decrease of one formal complaint to timely and effective issuance of EEO policies, training, as well as better communication between management and employees through its Cooperative Resolution and Alternative Dispute Resolution (ADR) programs.
- The Conflict Complaints Division (CCD), which processes conflict cases⁵, reported an increase of 13 percent in the number of complaints filed in FY 2019. Specifically, 53 complaints were filed in FY 2019, compared to 46 filed in FY 2018. CCD attributes the 13 percent increase to the upsurge in filings based on age, assignment of duties, and promotion/non-selection.
- The Foreign Agricultural Service (FAS) reported a 23 percent decrease in the number of complaints in FY 2019. Specifically, 10 complaints were filed in FY 2019, compared to 13 complaints in FY 2018. FAS attributes the decline in complaints to training and educating employees on EEO issues, as well as interaction with employees.

⁵ Conflict case(s) is an EEO complaint involving facts and/or allegations that are determined to pose an actual, perceived, and or potential conflict of interest between a Responsible Management Official or complainant's position or personal interest, and USDA's responsibility to administer a fair and impartial investigative process and resolution of complaints.

- The Food and Nutrition Service (FNS) reported a consistent number of complaints for FYs 2019 and 2018. Specifically, 11 complaints were filed in FYs 2019 and 2018. FNS attributes the consistency in the number of complaints to the lack of mandatory EEO training in FY 2019.
- The Forest Service (FS) reported a 29 percent decrease in formal complaints in FY 2019. Specifically, 100 formal complaints were filed in FY 2019, compared to 141 formal complaints in FY 2018. FS attributes the decrease in the number of formal complaints to the continuous emphasis on creating and sustaining a safe, resilient working environment through its national Work Environment and Performance Office.
- The Farm Service Agency (FSA) reported a 23 percent decrease in the number of formal complaints in FY 2019. Specifically, 27 complaints were filed in FY 2019, compared to 35 in FY 2018. FSA attributes the 23 percent decrease to officials properly handling cases within the agency and mandating Diversity, Title VI and Title II training.
- The Food Safety and Inspection Service (FSIS) reported a seven percent increase in the number of complaints filed in FY 2019. Specifically, 58 formal complaints were filed in FY 2019, as compared to 54 filed in FY 2018. FSIS attributes the increase to the reorganization the Agency underwent in FY 2019.
- The National Agricultural Statistics Service (NASS) reported an increase in the number of complaints filed in FY 2019. Specifically, two formal complaints were filed in 2019, compared to none filed in FY 2018. NASS attributes this increase to the lack of remediation and resolution at the early stages of disagreement or disputes.
- The National Finance Center, Office of the Chief Financial Officer (NFC-OCFO) reported a 17 percent decrease in the number of complaints filed in FY 2019. Specifically, 35 formal complaints were filed in FY 2019, compared to 42 in FY 2018. NFC-OCFO attributes the decrease to expert EEO counseling at the informal stage of the EEO process and attempts to resolve matters at the lowest possible level within the agency.
- The National Institute of Food and Agriculture (NIFA) reported no change in the percentage of complaints filed in FY 2019. Specifically, three formal complaints were filed in FYs 2019 and 2018. NIFA attributes the static number of complaints to on-going civil rights training, utilization of ADR, and early proactive prevention of discrimination in its workplace.
- The Natural Resources Conservation Service (NRCS) reported a 35 percent decrease in the number of complaints filed in FY 2019. Specifically, 26 formal complaints were filed in FY 2019, compared to 40 in FY 2018. NRCS attributes the decrease to the agency's supervisory and non-supervisory EEO training.
- The Rural Development (RD) reported a decrease of 28 percent in the number of complaints filed in FY 2019. Specifically, 28 formal complaints were filed in FY 2019, compared to 39 in FY 2018. RD attributes the decrease to (1) employee's continued utilization of the ADR program to seek resolution both outside the EEO complaint

process and during the informal complaint process; and (2) RD continuing to raise awareness of equal opportunity during employee training sessions and compliance reviews, which led to employees' increased knowledge of their rights and responsibilities and prohibited discriminatory behavior.

- The Risk Management Agency (RMA) reported an 83 percent decrease in formal complaints filed in FY 2019. Specifically, one complaint was filed in FY 2019, compared to six in FY 2018. RMA attributes the decrease to the Agency's continued leadership commitment to outreach, employee training, and zero tolerance of workplace discrimination.

(2) Experience Gained by USDA in the Processing of Formal EEO Complaints

USDA, including all its Mission Areas and agencies, has learned the following lessons from its experience in processing and resolving formal EEO complaints:

- conducting mandatory training needed to address employee issues and bases of complaints at the formal stage;
- continuing to utilize proactive approach to assuring employees adhere to USDA's EEO/Civil Rights policies and applicable requirements through the distribution of information, training and education;
- involving managers and employees in EEO training to assure consistency in resolving complaint matters and workplace issues;
- assuring managers and employees utilize new orientation packages and Research Leader/Supervisory training;
- promoting early engagement from managers and supervisors as a valuable tool in the early resolution of EEO issues;
- educating managers through Civil Rights/EEO training to take a proactive approach to reduce or eliminate alleged discriminatory behavior and practices prior to the informal stage;
- improving the EEO pre-complaint process at the beginning stage to impact the formal complaint activity positively;
- continuing to hold managers, supervisors and employees accountable as a key factor in creating a workplace free from discrimination;
- staying committed to educating managers, supervisors, and employees on EEO and Civil Rights laws to avoid harassment and discriminatory practices that lead to disciplinary actions;
- requiring managers and supervisors to complete training in communication, conflict management/ADR, disability, and work-life balance; and

- promoting early involvement by EEO Counselors in resolving complaints.

(3) Past and Future Actions by USDA Relating to EEO Complaints Processing

USDA, including its Mission Areas and agencies, has taken several actions that have proven effective in improving its formal EEO complaint processing. USDA is also introducing new initiatives to reduce complaints in future years. The past actions include:

- created a new division which deals with “Customer and Employee Engagement” in order to listen, learn, and measure what matters to customers and employees;
- created a new online EEO curriculum utilizing AgLearn. Conducted EEO/civil rights/diversity training for all employees, supervisors, and managers to ensure understanding, cooperation, and compliance with the EEO policy;
- encouraged supervisors and managers to cooperate with EEO officials and investigators throughout the complaint process, respond to requests for information and documents in a timely and accurate manner, participate in mediation at any stage of the complaint process, and participate in training especially as it relates to the complaints process, Title VII, and EEO training;
- continued to enhance its Reasonable Accommodation program to improve efficiency and ensure compliance with the EEOC’s requirements;
- provided RA training to new supervisors, frontline supervisors and various offices within the Agency to ensure and reinforce understanding of RA procedures;
- established a new anti-harassment policy and anti-harassment procedures for conducting management inquiries for all allegations of harassment, whether presented to the Civil Rights Office or any other officials;
- continued to assure prompt and impartial complaint processing which holds managers, supervisors and employees accountable for creating a workplace free from discrimination; and
- reaffirmed and disseminated the Secretary's EEO policy statement.

Additionally, USDA plans to take the following future actions:

- reaffirm and disseminate the Secretary’s EEO policy; conduct EEO/civil rights/diversity training for all employees, supervisors, and managers to ensure their understanding, cooperation, and compliance;
- implement its OneUSDA Anti-harassment Policy and departmental regulation;
- implement a OneUSDA Compliance review for all Mission Areas and Agencies based on the revised USDA Compliance Departmental Regulation;

- provide EEO, human resources, and workforce diversity training to meet the challenges of a diverse workforce and continue to use early resolution strategies such as mediation;
- issue mandatory “No FEAR” and “Anti-Reprisal” training to the entire workforce;
- establish three Special Emphasis Programs in field locations to assist the Agency’s efforts towards achieving and maintaining a discrimination-free workplace;
- continue to make Civil Rights and EEO compliance a critical element of supervisory evaluations, ensure supervisors receive regular EEO training, specifically on the topics of harassment, reasonable accommodations, telework, retaliation, and diversity training;
- hold meetings with the Agency Head (or designee), Administrators, and State Directors to discuss complaint activity, in a continued effort to strengthen communications, identify trends, and continually evaluate the possibility of early resolution of conflicts that could lead to EEO complaints;
- continue to review the existing compliance review assessment tools to determine whether new evaluation measures are required to effectively assess the Agency’s EEO Program;
- assure all CR/EEO counseling and investigative personnel receive the required 32 hours of training and the annual 8-hour refresher training; and
- encourage individuals to engage in early resolution of complaints and ensure EEO conflicts are resolved at the lowest level possible.

**PART II:
USDA Reimbursement to
Judgment Fund for
Fiscal Year 2019**

USDA Reimbursement to Judgment Fund for Fiscal Year 2019

Introduction

Table 8 below provides information on reimbursements by USDA to the U.S. Department of Treasury's Judgment Fund for monies associated with FY 2019 judgments, awards, or settlements under the statutes addressed in the No FEAR Act.

Table 8
USDA Reimbursement to Judgment Fund for FY 2019 Settlements

USDA Reimbursement to Judgment Fund for FY 2019 Settlements			
Case	Total Amount	Attorney's Fees	
1	\$12,000.00	\$0.00	
Total	\$12,000.00	\$0.00	

Summary

In FY 2019, USDA reimbursed the Judgment Fund \$12,000.00, of which \$0.00 were identified as payment of attorney's fees.

PART III:
USDA Disciplinary Actions and Reports
for Fiscal Years 2018 – 2019

**USDA Disciplinary Actions and Reports for
Fiscal Years 2018–2019**

Summary of Data

PART 1: Table 9 below contains the number of disciplinary actions taken against employees who were found to have committed prohibited acts of discrimination, retaliation, harassment, or prohibited personnel practices (including those acts discovered in conjunction with investigations of whistleblower protection or civil rights complaints).

Table 9

ADMINISTRATIVE DISCIPLINARY ACTIONS												
TYPE OF ACTION	FY 2018						FY 2019					
	DISC.	RET.	HAR.	PPP	WBP	TOTAL	DISC.	RET.	HAR.	PPP	WBP	TOTAL
REMOVAL	0	0	3	0	0	3	0	0	1	0	0	1
15 DAY OR MORE	0	0	0	0	0	0	0	0	0	0	0	0
14 DAY OR LESS	1	0	5	5	0	11	1	0	1	0	0	2
REDUCTION IN GRADE	0	0	0	0	0	0	0	0	0	0	0	0
REDUCTION IN PAY	0	0	0	0	0	0	0	0	0	0	0	0
LOR	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL DISCIPLINE	1	0	8	5	0	14	0	0	0	0	0	3

Table Abbreviations: Disc. = Discrimination; Ret. = Retaliation; Har. = Harassment; PPP = Prohibited Personnel Practice; WBP = Whistleblower Protection Act; and LOR = Letter of Reprimand.

PART 2: Table 10 below illustrates the number of Office of Special Counsel (OSC) Whistleblower cases and the number of employees disciplined under the Department’s disciplinary policies related to whistle-blowing and discrimination.

Table 10

OFFICE OF SPECIAL COUNSEL CASES			
CATEGORIES OF CASES	FY 2018	FY 2019	TOTAL
OSC WHISTLEBLOWER CASE	0	0	0
OSC WHISTLEBLOWER CASE CLOSED	0	0	0
OSC WHISTLEBLOWER DISCIPLINE TAKEN	0	0	0

PART IV:
USDA Federal Court Litigation Statistics
for FY 2019

Tables 11, 12, and 13 below provide composite data for cases in Federal Court pending or resolved in FY 2019 and arising under the anti-discrimination and whistleblower protection laws.

**Table 11
Federal Cases Pending in FY 2019**

Federal Cases Pending in FY 2019	
Pending District Court Cases	58
Pending Appellate Court Cases	3
New Cases Filed in District Court	26
Note: Cases pending at any time during the year, including those filed during the year, and those disposed of during the year.	

**Table 12
Pending Cases**

Pending Cases					
	29 U.S.C. §206(d)	29 U.S.C. §631	29 U.S.C. §633a	29 U.S.C. §791	42 U.S.C. §2000e-16
Disposed of During FY 2019	0	6	36	6	15
Still Pending at End of FY 2019	3	10	10	16	42

**Table 13
Disposition of Cases
(Including Dismissals)**

Disposition of Cases (Including Dismissals)					
	29 U.S.C. §206(d)	29 U.S.C. §631	29 U.S.C. §633a	29 U.S.C. §791	42 U.S.C. §2000e-16
Settlements	0	1	1	0	2
Withdrawals	0	1	1	0	1
Final Judgment for Complainant	1	0	0	0	0
Final Judgment for Agency	0	6	6	5	15
Total Cases disposed of in 2019	0	8	8	5	18

NOTES ON CASES WITH MULTIPLE BASES ALLEGED

1. Of the cases handled by the Office of General Counsel (OGC) involving the Federal Antidiscrimination Laws covered by the No FEAR Act, approximately 92.1 percent of those cases involve claims of discrimination on multiple bases (e.g., Sex, Race) and/or under multiple statutes (e.g., Title VII, ADEA).
2. Of the cases handled by OGC involving the Federal Antidiscrimination Laws covered by the No FEAR Act, approximately 74.6 percent of those cases also included a claim of reprisal/retaliation.

Appendix A
Equal Employment Opportunity Data
Posted Pursuant to the No FEAR Act

Equal Employment Opportunity Data Posted Pursuant to the No FEAR Act

FY 2019 for period ending September 30, 2019

Complaint Activity					
	2015	2016	2017	2018	2019
Number of Complaints Filed	513	531	561	522	436
Number of Complainants	498	508	531	497	414
Repeat Filers	15	19	24	21	18
Complaints by Basis					
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2015	2016	2017	2018	2019
Race	205	222	243	216	195
Color	71	63	75	85	95
Religion	24	35	35	28	35
Reprisal	296	273	311	315	258
Sex	217	206	216	229	171
PDA	2	0	2	2	2
National Origin	70	47	67	68	58
Equal Pay Act	2	1	8	13	7
Age	184	185	207	155	157
Disability	167	157	185	195	170

Genetics	2	0	1	0	3	
Non-EEO	58	39	55	40	37	
Complaints by Issue						
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>		2015	2016	2017	2018	2019
Appointment/Hire	36	28	40	24	17	
Assignment of Duties	119	92	87	82	72	
Awards	19	8	17	14	8	
Conversion to Full Time/Permanent Status	0	0	3	1	0	
				3	1	
				43	41	
				37	34	
				21	32	
				3	3	
Duty Hours	23	20	18	8	15	
Performance. Evaluation/Appraisal	90	92	96	98	91	
Examination/Test	1	1	2	1	1	
Medical Examination	8	1	4	0	3	
Pay including Overtime	41	22	30	11	13	
Promotion/Non-Selection	160	149	124	71	100	

Directed					
Reasonable Accommodation Disability	84	68	84	94	75
Reinstatement	1	2	0	0	3
Religious Accommodation	0	3	4	1	1
Retirement	1	3	6	4	11
Sex-Stereotyping	0	1	1	1	0
Telework	14	29	25	31	20
Termination	41	27	36	35	27
Terms/Conditions of Employment	167	103	146	135	137
Time and Attendance	79	60	67	77	69
Training	49	54	40	45	30

Processing Time					
	2015	2016	2017	2018	FY 2019
Average Number of Days in Investigation	198.99	209.13	161.02	173.22	199.49
Average Number of Days in Final Action	106.45	97.53	151.66	36.78	40.62
Average Number of Days in Investigation	203.06	213.18	165.95	172.58	208.32
Average Number of Days in Final Action	94.69	69.31	108.76	21.90	29.15

Average Number of Days in Investigation	192.70	202.08	153.61	173.78	189.03
Average Number of Days in Final Action	114.36	124.03	181.492	50.90	55.94

Complaints Dismissed by Agency					
	2015	2016	2017	2018	2019
Total Complaints Dismissed by Agency	57	54	83	84	51
Average Days Pending Prior to Dismissal	104	111	64	20	66
Total Complaints Withdrawn by Complainants	35	28	35	28	37

Total Final Agency Actions Finding Discrimination										
	2015	2016	2017	2018	FY 2019					
	#	%	#	%	#	%	#	%	#	%
Total Number Findings	11	7	5	1			3			
Without Hearing	5	45	6	86	3	60	0	0	1	33
With Hearing	6	55	1	14	2	40	1	100	2	67

<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>										
	2015	2016	2017	2018	2019					
	#	%	#	%	#	%	#	%	#	%
Total Number Findings	8	7	4	1			3			
Race	1	13	3	43	3	75	0	0	1	33

Color	0	0	1	14	0	0	0	0	1	33
Religion	0	0	0	0	0	0	0	0	0	0
Reprisal	4	50	4	57	1	25	1	100	2	67
Sex	0	0	3	43	0	0	1	100	1	33
PDA	0	0	0	0	0	0	0	0	0	0
National Origin	1	13	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0
Age	1	13	0	0	1	25	0	0	0	0
Disability	7	88	2	29	0	0	0	0	2	67
Genetics	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0
Findings After Hearing	6		1		2		1		2	
Race	1	17	1	100	2	100	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	50
Reprisal	3	50	1	100	0	0	1	100	1	0
Sex	0	0	1	100	0	0	1	100	0	0
PDA	0	0	0	0	0	0	0	0	0	0
National Origin	1	17	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0
Age	1	17	0	0	1	50	0	0	0	50
Disability	5	83	0	0	0	0	0	0	1	0
Genetics	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0
Findings Without Hearing	2		6		2		0		1	

Race	0	0	2	33	1	50	0	0	1	100
Color	0	0	1	17	0	0	0	0	1	100
Religion	0	0	0	0	0	0	0	0	0	0
Reprisal	1	50	3	50	1	50	0	0	1	100
Sex	0	0	2	33	0	0	0	0	1	100
PDA	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0		0	0
Age	0	0	0	0	0	0	0	0	0	0
Disability	2	100	2	33	0	0	0	0	1	100
Genetics	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0
Findings of Discrimination Rendered by Issue										
	2015		2016		2017		2018		FY 2019	
Total Number Findings	8		7		4		1		3	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	1	14	2	50	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/ Permanent Status	0	0	0	0	0	0	0	0	0	0
Demotion	0	0	0	0	0	0	0	0	0	0
Reprimand	1	13	2	29	0	0	0	0	0	0
Suspension	0	0	1	14	0	0	0	0	1	33
Removal	0	0	0	0	0	0	0	0	1	33
Other	0	0	0	0	0	0	0	0	0	0

Duty Hours	0	0	1	14	0	0	0	0	0	0
Performance Evaluation/ Appraisal	1	13	0	0	0	0	0	0	1	33
Examination/Test	0	0	0	0	0	0	0	0	0	0
Non-Sexual	3	38	2	29	0	0	0	0	3	100
Sexual	0	0	0	0	0	0	1	100	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0
Pay Including Overtime	0	0	0	0	0	0	0	0	1	33
Promotion/Non-Selection	0	0	2	29	3	75	0	0	0	0
Denied	0	0	0	0	0	0	1	100	0	0
Directed	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation Disability	4	50	1	14	0	0	0	0	2	67
Reinstatement	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	1	25	0	0	0	0
Terms/Conditions of Employment	0	0	2	29	1	25	0	0	0	0
Time and Attendance	1	13	0	0	0	0	1	100	0	0
Training	0	0	0	0	0	0	0	0	0	0
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0
User Defined - Other 2	0	0	0	0	0	0	0	0	0	0
User Defined - Other 3	0	0	0	0	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0	0	0	0	0
Findings After Hearing	6		1		2		1		2	

Appointment/Hire	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	1	100	1	50	0	0	0	0
Awards	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
Demotion	0	0	0	0	0	0	0	0	0	0
Reprimand	1	17	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	1	50
Removal	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/ Appraisal	1	17	0	0	0	0	0	0	1	50
Examination/Test	0	0	0	0	0	0	0	0	0	0
Non-Sexual	3	50	0	0	0	0	0	0	2	100
Sexual	0	0	0	0	0	0	1	100	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0
Pay Including Overtime	0	0	0	0	0	0	0	0	1	50
Promotion/Non-Selection	0	0	0	0	1	50	0	0	0	0
Denied	0	0	0	0	0	0	1	100	0	0
Directed	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation Disability	2	33	0	0	0	0	0	0	1	50
Reinstatement	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0

Telework	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	1	50	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	1	100	0	0
Training	0	0	0	0	0	0	0	0	0	0
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0
User Defined - Other 2	0	0	0	0	0	0	0	0	0	0
User Defined - Other 3	0	0	0	0	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0	0	0	0	0
Findings Without Hearing	2		6		2		0		1	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	1	50	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/ Permanent Status	0	0	0	0	0	0	0	0	0	0
Demotion	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	2	33	0	0	0	0	0	0
Suspension	0	0	1	17	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	1	100
Other	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	1	17	0	0	0	0	0	0
Performance Evaluation/ Appraisal	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0
Non-Sexual	0	0	2	33	0	0	0	0	1	100
Sexual	0	0	0	0	0	0	0	0	0	0

Medical Examination	0	0	0	0	0	0	0	0	0	0
Pay Including Overtime	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	2	33	2	100	0	0	0	0
Denied	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation Disability	2	100	1	17	0	0	0	0	1	100
Reinstatement	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	2	33	1	50	0	0	0	0
Time and Attendance	1	50	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0
User Defined - Other 2	0	0	0	0	0	0	0	0	0	0
User Defined - Other 3	0	0	0	0	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0	0	0	0	0
Pending Complaints Filed in Previous Fiscal Years by Status										
	2015	2016	2017	2018	FY 2019					
Total Complaints from Previous Fiscal Years	439	442	472	453	453					
Total Complainants	403	417	429	410	398					

Investigation	19	15	14	17	17
ROI Issued, Pending Complainant's Action	1	2	0	0	1
Hearing	381	375	434	426	410
Final Agency Action	50	59	27	24	36
Appeal with EEOC Office of Federal Operations	122	143	192	231	274
Complaint Investigations					
	2015	2016	2017	2018	FY 2019
Pending Complaints Where Investigations Exceed Required Time Frames	16	10	8	21	16

*The complaint numbers for Race and National Origin in this report include some instances where complaints alleging Hispanic/Latino were categorized as race instead of national origin. As of FY2024, this error has been corrected in the complaint tracking system, and Hispanic/Latino is now recognized solely as a basis of national origin.