

# No FEAR Act report for fiscal year (FY) 2018

Pursuant to Notification and Federal Employee Antidiscrimination  
and Retaliation Act of 2002



# Message from Kathy L. Kraninger

## Director of the CFPB

On behalf of the Consumer Financial Protection Bureau, I am pleased to present the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) Annual Report for Fiscal Year (FY) 2018. The report provides Congress and the public with important information and requirements outlined in the No FEAR Act and the law's implementing regulations. The report also gives me an opportunity to restate the Bureau's commitment to fostering a fair and discrimination-free workplace.



Recently, I issued the agency's [EEO and Anti-Harassment Policy Statement](#) and [No FEAR Act Notice](#). These documents explain how Equal Employment Opportunity is indispensable to achieving the Bureau's mission and fundamental to a well-functioning civil service. After all, our federal workforce is the envy of the world because it is built on merit.

During my tenure, the Bureau will vigorously enforce all antidiscrimination and whistleblower protection laws, regulations, and Executive orders. I look forward to working closely with the Bureau's Office of Equal Opportunity and Fairness, Legal Division, and Office of Human Capital, and with other internal and external stakeholders, to embed EEO and merit system principles as a part of everything we do.

Sincerely,

A handwritten signature in blue ink that reads "Kathy L. Kraninger".

Kathy L. Kraninger

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# 1. Purpose of report

Congress passed the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 – the “No FEAR Act” – to hold Federal agencies more accountable for violations of antidiscrimination and whistleblower protection laws.<sup>1</sup> Congress found that “requiring annual reports to Congress on the number and severity of discrimination and whistleblower cases brought against each Federal agency should enable Congress to improve its oversight over compliance by agencies with the law.”<sup>2</sup>

Accordingly, the No FEAR Act requires each agency, no later than 180 days after the end of each fiscal year, to submit a report to the Speaker of the U.S. House of Representatives, the President pro tempore of the U.S. Senate, the Committee on Governmental Affairs of the Senate,<sup>3</sup> the Committee on Government Reform of the House of Representatives,<sup>4</sup> each committee of Congress with jurisdiction relating to the agency, the Chair of the Equal Employment Opportunity Commission (EEOC), and the Attorney General of the United States.<sup>5</sup> Regulations from the Office of Personnel Management (OPM) implementing the No FEAR Act, 5 Code of Federal Regulations (C.F.R.) Part 724, Subpart C, also require the submission of this annual report to the Director of OPM.<sup>6</sup>

The annual report must provide the following information:

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<sup>1</sup> See Pub. L. No. 107-174, 116 Stat. 566 (2002).

<sup>2</sup> Pub. L. No. 107-174, § 101(7).

<sup>3</sup> This Committee is now named the U.S. Senate Committee on Homeland Security and Governmental Affairs.

<sup>4</sup> This Committee is now named the U.S. House of Representatives Committee on Oversight and Reform.

<sup>5</sup> Pub. L. No. 107-174, § 203(a).

<sup>6</sup> 5 C.F.R. § 724.302(c)(8).

- The number of federal court cases, pending or resolved, arising under the No FEAR Act laws and the status and disposition of the cases;
- Judgment Fund reimbursements and adjustments to agency budgets to meet reimbursement requirements;
- The number and type of disciplinary actions related to discrimination, retaliation, or harassment and the agency's policy relating to appropriate disciplinary action;
- Year-end summary data related to federal-sector EEO complaint activity;
- An analysis of trends, causation, and practical knowledge gained through experience, and actions planned or taken to improve complaint or civil rights programs; and
- The agency's plan for No FEAR Act-related training.<sup>7</sup>

The Consumer Financial Protection Bureau (CFPB, Bureau, or Agency) prepares and submits this report to comply with these statutory and regulatory requirements.

CFPB's No FEAR Act data – including No FEAR Act annual reports, the Agency's most recent No FEAR Act Notice, and quarterly data – can be accessed from the homepage of the Bureau's website ([www.consumerfinance.gov](http://www.consumerfinance.gov)), or directly at <https://www.consumerfinance.gov/office-civil-rights/no-fear-act/>.

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<sup>7</sup> See Pub. L. No. 107-174, § 203(a)(1); *see also* 5 C.F.R. § 724.302(a). Appendix A to this report sets forth these requirements in full.

## 2. Background

### 2.1 CFPB Mission and Structure

The Dodd-Frank Wall Street Reform and Consumer Protection Act (including the Consumer Financial Protection Act of 2010) (Dodd-Frank Act or DFA) created the CFPB to regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws.<sup>8</sup> Under the Consumer Financial Protection Act, the Bureau “shall seek to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.”<sup>9</sup>

CFPB exercises its authorities under Federal consumer financial law for the purposes of ensuring that, with respect to consumer financial products and services: (1) consumers are provided with timely and understandable information to make responsible decisions about financial transactions; (2) consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination; (3) outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens; (4) Federal consumer financial law is enforced consistently in order to promote fair competition; and (5) markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.<sup>10</sup>

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<sup>8</sup> See Pub. L. No. 111-203, at Title X, § 1011(a), 124 Stat. 1376, 1964 (July 21, 2010) (codified at 12 U.S.C. § 5491(a)).

<sup>9</sup> 124 Stat. 1980, § 1021(a) (codified at 12 U.S.C. § 5511(a)).

<sup>10</sup> *Id.* at § 1021(b) (codified at 12 U.S.C. § 5511(b)).

Under the Consumer Financial Protection Act of 2010, the primary functions of the Bureau are (1) conducting financial education programs; (2) collecting, investigating, and responding to consumer complaints; (3) collecting, researching, monitoring, and publishing information relevant to the functioning of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets; (4) supervising covered persons for compliance with Federal consumer financial law, and taking appropriate enforcement action to address violations of Federal consumer financial law; (5) issuing rules, orders, and guidance implementing Federal consumer financial law; and (6) performing such support activities as may be necessary or useful to facilitate the other functions of the Bureau.<sup>11</sup>

The CFPB's structure includes the Office of the Director (which includes the Office of Equal Opportunity & Fairness, among other components), and six Divisions:

- Consumer Education & Engagement (CEE)
- Supervision, Enforcement, & Fair Lending (SEFL)
- Research, Markets, & Regulations (RMR)
- External Affairs (EA)
- Legal (LD)
- Operations (OPS)

By statute, the Bureau is an Executive agency (as defined in 5 U.S.C. § 105) that is an independent Bureau of the Federal Reserve System.<sup>12</sup> CFPB officially began operations on July 21, 2011. At the end of FY 2018, the Bureau consisted of 1,504 employees (permanent and temporary).

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<sup>11</sup> *Id.* at § 1021(c) (codified at 12 U.S.C. § 5511(c)).

<sup>12</sup> 124 Stat. 1964, § 1011(a) (codified at 12 U.S.C. § 5491(a)).



## 2.2 CFPB EEO program

CFPB has an Office of Equal Opportunity & Fairness (OEOF), which is housed in the Office of the Director of CFPB. OEOF is comprised of four program components: The Office of Civil Rights (OCR) – which carries out functions required by Title VII of the Civil Rights Act of 1964 (and similar laws) and the EEOC’s federal-sector regulations at 29 C.F.R. Part 1614 (Part 1614);<sup>13</sup> the Office of Minority and Women Inclusion (OMWI) – an office required under the Dodd-Frank Act;<sup>14</sup> the Disability and Accessibility Program (DAP) – which coordinates the Bureau’s responsibilities under the Rehabilitation Act of 1973; and the Office of Fair Lending, which leads the Bureau’s effort to ensure fair, equitable, nondiscriminatory access to credit for both individuals and communities. The OCR and OMWI Assistant Directors have dual reporting to the CFPB Director and OEOF Associate Director. The OEOF Associate Director reports directly to the CFPB Director. The OEOF Director is firewalled from involvement in EEO complaint processing, and also from involvement in making or approving any disability-related reasonable accommodation decisions.

OCR, the Bureau’s Equal Employment Opportunity (EEO) office, has operated since February 2013.

**TABLE 1:** MISSION, VISION, AND VALUES OF CFPB’S OFFICE OF CIVIL RIGHTS

CFPB’s Office of Civil Rights	
<b>Mission</b>	To support the Bureau in complying with civil rights laws and in applying best practices to achieve equal opportunity in the workplace.
<b>Vision</b>	The Bureau as a model, fair, and discrimination-free workplace – with an engaged and empowered workforce that is energized to carry out Bureau leadership’s priorities.

<sup>13</sup> See generally 42 U.S.C. § 2000e-16; Exec. Order No. 11478, 34 Fed. Reg. 12985 (Aug. 8, 1969), *as amended*; see also 29 C.F.R. Part 1614.

<sup>14</sup> See 12 U.S.C. §§ 5452(a)(1)(B), (b)(2)(A).

**How OCR Works**

With independence, integrity, competence, collaboration, and a commitment to quality and excellence.

The Agency's EEO office exists to safeguard employment-related civil rights throughout the Agency. Given this legal mandate, OCR champions CFPB efforts to foster a fair and equitable workplace – one where employment decisions are based on individual merit, and where everyone has an equal chance to succeed as far as their talents will take them. OCR works to integrate EEO into the Bureau's everyday business by:

- Proactively identifying and removing potential physical, institutional, or attitudinal barriers to EEO within the Bureau;
- Helping to de-escalate specific workplace conflicts and resolve them, including robust alternative dispute prevention and resolution;
- Contributing subject-matter expertise to aid the Bureau pragmatically with strategic thinking, problem-solving, policy development, and workforce planning;
- Providing technical assistance to stakeholders, such as Agency leadership, OMWI, DAP, the Bureau's Office of Human Capital (OHC), the National Treasury Employees Union (NTEU),<sup>15</sup> diversity councils (the Agency's Diversity and Inclusion Council of Employees (DICE)), and Employee Resource Groups (ERGs) to achieve a model workplace;
- Providing a neutral and fair forum (outside the Bureau's Legal Division and OHC) for the discussion, investigation, adjudication, and resolution of EEO matters under Part 1614 and related Executive Orders; and
- Requiring CFPB to remedy violations of civil rights laws, including taking targeted steps to prevent repeat violations and making individual discrimination victims "whole" with appropriate damages.

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<sup>15</sup> This is CFPB employees' chosen labor organization.

The OCR Director leads a small team of diverse professionals, including civil rights attorneys, a human capital expert, dispute prevention and resolution practitioners, and data and administrative support specialists. The team has significant subject matter expertise and extensive experience in civil rights, labor and employment laws, conflict management, investigative techniques, and federal-sector rules and processes.

To comply with Part 1614, OCR remains neutral and impartial and (as required under EEOC regulations and guidance) safeguards its organizational autonomy. This helps to prevent institutional conflicts of interest that otherwise could arise, and to instill confidence in the integrity of the Agency's EEO program. For example, the OCR Assistant Director exercises full authority to carry out OCR's Part 1614 functions without Legal Division (General Counsel) involvement. The Legal Division, which defends the Bureau in EEO matters, is firewalled from all activities within OCR and only participates during adversarial portions of the EEO process (hearings and appeals), during settlement negotiations, and/or to provide appropriate legal advice or assistance when a manager or supervisor requests it during the course of an EEO investigation (consistent with EEOC guidance and case law setting forth parameters for agency counsel involvement and professional responsibility rules governing attorney conduct). Other Bureau offices (such as OHC) are similarly firewalled and kept separate as necessary and appropriate to avoid conflicting or competing interests.

Legal resources within OCR make this possible.<sup>16</sup> OCR staff conducts legal-sufficiency reviews of EEO matters, which includes, for example, preparing and issuing "Accept/Dismiss" determinations addressing jurisdiction over, and scope of, claims set forth in formal complaints;<sup>17</sup> conducting an impartial and appropriate investigation of accepted formal

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<sup>16</sup> The Bureau and OCR have adopted the EEOC's recommended best practice. *See* EEOC Management Directive for 29 C.F.R. Part 1614 (rev. Aug. 5, 2015) (MD-110), Chapter 1, at Section IV.D., available at [https://www.eeoc.gov/federal/directives/md-110\\_chapter\\_1.cfm#\\_Toc425745116](https://www.eeoc.gov/federal/directives/md-110_chapter_1.cfm#_Toc425745116) ("It is important for the EEO Director to be provided with sufficient legal resources . . . so that the legal analyses necessary for reaching final agency decisions can be made within the autonomous EEO office. . . . The optimal situation is for the EEO office to have sufficient internal legal resources.").

<sup>17</sup> Under 29 C.F.R. Part 1614, the EEO process consists of two main parts – the "informal" or pre-complaint phase, and the "formal" complaint phase. Employees who wish to pursue an EEO matter under Part 1614 generally must

complaints; conducting substantive reviews of the Reports of Investigations (ROIs) to ensure compliance with laws and regulations; and drafting of Final Agency Decisions (FADs).

At the same time, while OCR maintains the primary responsibility for many aspects of the Agency's overall EEO program, it collaborates as appropriate with OMWI, DAP, and the Bureau's OHC and Legal Division to ensure fairness and equality under the law for all employees and applicants for employment. For instance, under the Dodd-Frank Act, OMWI must develop certain standards for EEO and diversity at the Bureau,<sup>18</sup> which OHC incorporates into CFPB Human Capital Management. OCR, OMWI, DAP, and OHC monitor the impacts and results of these standards, cultivate successful policies and practices to reinforce them, and develop enhancement strategies to strengthen all EEO and diversity and inclusion (D&I) programs Bureau-wide. OCR consults as appropriate with DAP (under the supervision of the Bureau's new Disability Compliance Program Manager) and OHC in promoting the recruitment, hiring, development, advancement, and retention of individuals with disabilities and targeted disabilities, as required under the Rehabilitation Act of 1973 and related regulations, including EEOC's disability affirmative action regulations.<sup>19</sup> OCR also coordinates on a general basis with OHC on (among other topics) the harassment-prevention program OHC administers. In addition, OCR collaborates as appropriate with the Legal Division, which trains and advises

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complete the informal/pre-complaint stage before they may file a formal EEO complaint seeking redress for alleged workplace discrimination. The informal/pre-complaint stage consists of attempts to resolve the matter informally, typically through traditional EEO counseling or Alternative Dispute Resolution. References in this report to "informal" complaints refer to requests for EEO counseling; references to "formal" matters refer to formal EEO complaints filed.

<sup>18</sup> The OMWI Director reports to the Bureau's Director. *See* 12 U.S.C. § 5452(b)(1). OMWI develops standards for equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of the Bureau, as well as standards to increase participation of minority-owned and women-owned businesses, and assesses the diversity policies and practices of entities regulated by the Bureau. *See* 12 U.S.C. § 5452(b)(2). Under the Dodd-Frank Act, OMWI's responsibilities do *not* include "enforcement of statutes, regulations, or executive orders pertaining to civil rights, except [that] each [OMWI] Director shall coordinate with the agency administrator, or the designee of the agency administrator, regarding the design and implementation of any remedies resulting from violations of such statutes, regulations, or executive orders." 12 U.S.C. § 5452(a)(3).

<sup>19</sup> *See* 29 U.S.C. § 791 *et seq.*; *see also* 29 C.F.R. § 1614.203.

Bureau managers and supervisors on merit system principles, prohibited personnel practices, and whistleblower protections under applicable civil services laws.

In addition, OCR provides technical assistance to Bureau leadership, management, diversity committees, ERGs, other employees, and NTEU to help carry out Bureau leadership priorities and implement the D&I and EEO aspects of the Bureau's five-year Strategic Plan for FY 2018-2022,<sup>20</sup> and also CFPB's Diversity and Inclusion Strategic Plan for 2016-2020 (updated in November 2016).<sup>21</sup> Together, these plans provide the strategic framework for driving the Agency's approach to EEO, D&I, and affirmative employment (including barrier-analysis efforts under EEOC Management Directive 715<sup>22</sup>).

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<sup>20</sup> This five-year Agency-wide Strategic Plan is available at [https://www.consumerfinance.gov/documents/6208/BCFP\\_strategic-plan\\_fy2018-fy2022.pdf](https://www.consumerfinance.gov/documents/6208/BCFP_strategic-plan_fy2018-fy2022.pdf).

<sup>21</sup> This five-year D&I Strategic Plan is available at <https://www.consumerfinance.gov/data-research/research-reports/BCFP-diversity-and-inclusion-strategic-plan-2016-2020/>.

<sup>22</sup> See EEOC Management Directive 715 (Oct. 1, 2003) (MD-715), *available at* <https://www.eeoc.gov/federal/directives/md715.cfm>; Instructions to Federal Agencies for EEO MD-715 (MD-715 Instructions), *available at* <https://www.eeoc.gov/federal/directives/md715/index.cfm>. Per EEOC's federal-sector regulations at 29 C.F.R. Part 1614, MD-715 is binding on all Executive agencies (including CFPB). See 29 C.F.R. § 1614.103(b)(2) ("This part applies to . . . Executive agencies as defined in 5 U.S.C. 105 . . ."); *see also* 29 C.F.R. § 1614.102(e) ("Agency [EEO] programs *shall* comply with this part and the Management Directives and Bulletins that the Commission issues.") (emphasis added).

# 3. Data and Analysis

The information in this section meets the reporting requirements of the No FEAR Act and its implementing regulations. The information presented includes:

- Subsection 3.1 – EEO Complaint Activity in Federal Court and Status/Disposition
- Subsection 3.2 – Judgment Fund Reimbursements and Budget Adjustments
- Subsection 3.3 – Discipline-Related Policies and Number of Employees Disciplined
- Subsection 3.4 – Analysis of Complaints
- Subsection 3.5 – No FEAR Act Training

## 3.1 EEO complaint activity in federal court and status/disposition

The laws covered by the No FEAR Act include:

- Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e-16 (race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, and reprisal) (Title VII);
- The Age Discrimination in Employment Act of 1967, *as amended*, 29 U.S.C. §§ 631, 633a (age (40 and over) and reprisal) (ADEA);
- The Equal Pay Act of 1963, *as amended*, 29 U.S.C. § 206(d) (sex-based wage differentials and reprisal) (EPA);
- Section 501 of the Rehabilitation Act of 1973, *as amended*, 29 U.S.C. § 791 (physical and mental disabilities and reprisal) (Rehabilitation Act);

- The Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff *et seq.* (genetic information about an individual or individual's family members and reprisal) (GINA);<sup>23</sup> and
- The Civil Service Reform Act of 1978, 5 U.S.C. §§ 2302(b)(1), (b)(8), (b)(9) (race, color, religion, sex, national origin, age, disability, marital status, political affiliation, and whistleblowing and related reprisal) (CSRA).

During FY 2018, the Bureau had four civil actions pending or resolved in United States district court(s) related to one or more of these No FEAR Act laws. These cases involved alleged violations of Title VII (three cases), the Equal Pay Act (two cases), the Age Discrimination in Employment Act (one case), and/or the Rehabilitation Act (one case). In one of the cases alleging Title VII violations, the U.S. District Court for the District of Columbia issued summary judgment in favor of the agency; the plaintiff appealed to the U.S. Court of Appeals for the District of Columbia, and that appeal is pending. In the case alleging Title VII, Equal Pay Act, and Rehabilitation Act violations, the D.C. District Court recently set a scheduling order and the discovery period has opened. In the case alleging Equal Pay Act violations, the parties are awaiting the district court's decision on a motion to transfer venue. And in the case alleging Title VII and Age Discrimination in Employment Act violations, the parties settled and the matter is closed.

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<sup>23</sup> Neither the No FEAR Act (enacted in 2002) nor implementing regulations (finalized and published in the Federal Register in 2006) have been amended to include reference to the Genetic Information Nondiscrimination Act of 2008 (GINA). Nonetheless, in the interests of completeness, CFPB will include relevant data here on any federal court cases or EEO complaints alleging violations of GINA. No such cases or complaints have been filed to date.

## 3.2 Judgment fund reimbursements and budget adjustments

The Judgment Fund is a permanent, indefinite appropriation available to pay final money judgments and awards against the United States. The Judgment Fund Branch in the Bureau of the Fiscal Service of the U.S. Department of the Treasury administers the Judgment Fund.<sup>24</sup>

The No FEAR Act requires Federal agencies to reimburse the Judgment Fund for payments to an employee, former employee, or applicant for Federal employment, in accordance with 28 U.S.C. §§ 2414, 2517, 2672, 2677, or with 31 U.S.C. § 1304, that involves alleged discriminatory or retaliatory conduct described in 5 U.S.C. §§ 2302(b)(1) and (b)(8) or (b)(9) as applied to conduct described in 5 U.S.C. §§ 2302(b)(1) and/or (b)(8), or conduct described in 29 U.S.C. § 206(d), 29 U.S.C. §§ 631 and 633a, 29 U.S.C. § 791, and 42 U.S.C. § 2000e-16.<sup>25</sup>

In FY 2018, the Bureau neither made reimbursements to the Judgment Fund nor needed to adjust its budget to comply with No FEAR Act reimbursement requirements. CFPB will not be accessing the Judgment Fund; other sources of funds are available for these purposes.<sup>26</sup>

## 3.3 Discipline-related policies and number of employees disciplined

CFPB has promulgated various policies and procedures to advance the Bureau's EEO and whistleblower protection program. These and other personnel-related policies and procedures aid in the proactive prevention of discrimination and increase management and program accountability. Having clear and concise policies and procedures minimizes subjectivity, prevents misunderstandings about what CFPB expects from its employees and management officials, clarifies the roles and responsibilities of the various Offices within the Bureau, and

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<sup>24</sup> See <https://www.fiscal.treasury.gov/fsservices/gov/pmt/jdgFund/questions.htm>.

<sup>25</sup> See Pub. L. No. 107-174, § 201(b); *see also* 5 C.F.R. §§ 724.102, 103.

<sup>26</sup> See Pub. L. No. 111-203, § 1017.



creates an environment and expectation of consistency in personnel decision-making Agency-wide.

CFPB management officials are held accountable for complying with the following the policies and procedures listed in Table 2.

**TABLE 2:** CFPB POLICIES GOVERNING EEO AND MAJOR PERSONNEL ISSUES AND PROGRAMS

<b>Policies Governing EEO and Major Personnel Issues and Programs</b>
CFPB-NTEU Collective Bargaining Agreement (Various Articles)
Alternative Dispute Resolution Policy
Administrative Grievance Policy
Attorney Hiring and Promotion Policy
Disciplinary and Adverse Action Policy
Employee Resource Group (ERG) Policy
Equal Employment Opportunity and Non-Discrimination Policy
Hiring, Promotion, and Internal Personnel Movements Policy
Procedures Related to Harassment and Inappropriate Conduct
Reasonable Accommodation Policy
Standard Operating Procedures Related to Reasonable Accommodation Requests, to include applicable forms
Directive on Schedule A Appointing Authority for Persons with Disabilities
Performance Management Policy
Procedures for Processing Complaints Based on Sexual Orientation and Parental Status
Non-Discrimination and Inclusion Policy for Transgender Applicants and Employees
Cooperation with the Office of Inspector General Policy

The CFPB-NTEU collective bargaining agreement (CBA), which became effective December 9, 2017), has approximately 47 articles, including an article addressing Equal Employment Opportunity, which affirms the parties' commitment to the principles of EEO and workplace

fairness. The CBA also includes articles on Performance Management, Probationary/Trial Period Employees, Unacceptable Performance, Adverse Actions, Disciplinary Actions, and Grievance and Arbitration Procedures.

The CBA's "Disciplinary Action" Article provides that disciplinary action will be taken "for such cause as will promote the efficiency of the federal service." The Article also states that:

In effecting disciplinary actions, the [Bureau] endorses the use of like penalties for like offenses and progressive discipline. The [CFPB] will consider the existence of any mitigating and/or aggravating circumstances, the nature of the position occupied by the employee at issue, and any other factors bearing upon the incident(s) or act(s) underlying the action. The degree of discipline administered will be proportionate to the offense and will be determined on a case-by-case basis.

The CBA also includes an "Adverse Action" Article for matters potentially appealable to the Merit Systems Protection Board (e.g., suspensions of more than 14 days, reductions in pay, removals, etc.). This Article again expresses support for progressive discipline, but also states that the Bureau "will evaluate each situation warranting adverse action individually and, in instances involving serious offenses, progressive discipline may not be appropriate." While the Article does not contain a Table of Penalties, the Article incorporates penalty mitigation/aggravation factors from *Douglas v. Veterans Administration*, 5 M.S.P.R. 280 (1981).

Similarly, as noted in Table 2, CFPB has a detailed policy for taking disciplinary action against CFPB employees – including 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 laws). The Bureau's *Disciplinary and Adverse Action Policy* outlines CFPB's commitment to:

- Foster positive and effective supervisor-employee relations through frequent, constructive communication, including a clear statement of organizational and office work rules and expectations;
- Equitably employ discipline, and, whenever appropriate, utilize progressive discipline to discourage employee misconduct;

- Identify problems early and constructively counsel employees to effect a positive change in behavior;
- Ensure that the corrective action is commensurate with the seriousness of the misconduct and that similar offenses under like circumstances are treated uniformly; and
- Take or not take actions without regard to race, color, religion, national origin, disability, protected genetic information, marital status, age, sex (including pregnancy, gender identity, and gender nonconformity), sexual orientation, reprisal, parental status, political affiliation, or any other non-merit factor prohibited by 5 U.S.C. § 2302, except as required by law.

This policy also explains that:

To ensure that all employees are working in a safe and productive environment and that the CFPB is able to operate at optimum efficiency, CFPB has established certain expectations for the personal conduct of its employees. These expectations are uniform throughout the CFPB. Employees are expected to be professional, courteous and respectful at all times while on duty. CFPB also may consider an employee's off-duty conduct to constitute misconduct if there is a nexus between the off-duty conduct and the efficiency of the service. While it is anticipated that most problems will be resolved informally through the cooperation of employees with their supervisors, misconduct may result in disciplinary or adverse action. Appropriate action may include a reprimand, suspension, demotion, or other actions, up to and including removal from CFPB, depending on the offense and circumstances. CFPB is committed to complying with all federal laws governing the discipline of its employees, including applicable due process and appeal rights.

The Bureau's policy provides examples of actions deemed unacceptable, which may result in disciplinary or adverse action, up to and including removal from CFPB. The list includes "Engaging in discrimination, harassment, or other inappropriate conduct." The policy does not

contain a Table of Penalties, but (like the CBA Adverse Action Article) incorporates the *Douglas* factors for arriving at appropriate penalties for infractions.<sup>27</sup>

The Bureau's *Procedures Related to Harassment and Inappropriate Conduct* similarly prohibit discriminatory harassment. According to these procedures:

It is CFPB's policy to ensure that every employee enjoys a work environment free from discriminatory harassment. Discriminatory harassment is a violation of the Federal civil rights laws and will not be tolerated at CFPB. Even inappropriate conduct that is not of sufficient severity to constitute harassment as a matter of law is considered misconduct. CFPB will address complaints about such inappropriate conduct when first reported and will discipline employees where necessary for the protection and benefit of all employees.

The procedures also “forbid[] retaliation against any employee who reports harassment or who cooperates with an investigation of a harassment complaint.” Under these anti-harassment procedures, any such retaliation “will result in appropriate disciplinary action . . . .”

The Bureau trains all CFPB managers and supervisors on these policies. The Bureau also trains all employees on EEO laws, whistleblower protections, the Part 1614 complaint process, and related avenues for seeking redress for policy and statutory violations (including ADR).

Bureau policy also requires all employees to follow CFPB Ethics Regulations. Those ethics regulations in turn require all Bureau employees to abide by the Standards of Ethical Conduct for Employees of the Executive Branch.<sup>28</sup> The General Principles of Ethical Conduct require that employees adhere to all laws and regulations that provide equal opportunity for all regardless of race, color, religion, sex, national origin, age, or disability.<sup>29</sup> Employees are notified of this

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<sup>27</sup> OCR has provided OHC with a Congressional Report suggesting agencies create Table of Penalties, at least with respect to sexual misconduct. See <https://oversight.house.gov/wp-content/uploads/2017/10/Tables-of-Penalties-Majority-Report.pdf>.

<sup>28</sup> See 5 C.F.R. § 9401.101(b).

<sup>29</sup> See 5 C.F.R. § 2635.101(b)(13).

ethical requirement in mandatory ethics training, via posters, and through the Bureau's intranet.

In addition, the Bureau's Part 1614 EEO complaints process, which is administered by OCR, safeguards employee civil rights and provides appropriate relief for statutory violations.<sup>30</sup> Where there is a finding of unlawful discrimination – and even in certain cases where conduct was found not to be unlawful but nonetheless problematic – the OCR Director will recommend particular improvements or corrections, including remedial or disciplinary actions, for managers and supervisors who have failed in their EEO responsibilities. For instance, after the completion of an EEO investigation, the OCR Director will review the relevant record and provide specific feedback to Agency officials with oversight responsibilities for the involved program or team/employee to improve EEO knowledge and share lessons learned. The OCR Director provides this type of technical assistance on a strict need-to-know basis, only after carefully evaluating the propriety and necessity of giving this type of feedback, only after redacting certain information to maintain confidentiality where possible and as required by law, and only after determining that such information can be shared with officials consistent with OCR's role as a neutral arbiter.

OCR's approach in these matters demonstrates a commitment to comply with civil rights and civil service laws and Bureau policies, and to provide equal employment opportunity and a professional, inclusive work environment. OCR encourages Bureau officials to impose the maximum discipline supportable under the law and facts as relevant under the circumstances.<sup>31</sup>

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<sup>30</sup> Where OCR finds discrimination has occurred, OCR coordinates with the OMWI Director regarding the design and implementation of any remedies resulting from violations of civil rights statutes, regulations, or Executive orders (as required by the Dodd-Frank Act). *See* 12 U.S.C. § 5452(a)(3).

<sup>31</sup> *See* 29 C.F.R. § 1614.102(a)(6) (providing that, in supporting its EEO program, agencies shall "[t]ake appropriate disciplinary action against employees who engage in discriminatory practices").

In FY 2018, no employees received formal disciplinary action as defined in 5 C.F.R. § 724.102<sup>32</sup> in connection with cases pending or resolved in U.S. district court or for violating Bureau policies related to conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws.<sup>33</sup>

OCR did issue a formal finding of unlawful discrimination in FY 2018. Appendix C contains details (e.g., issues and bases) about this finding. Appendix C also provides a summary of the rest of the Bureau's Part 1614 EEO complaint activity for FY 2018 and five preceding fiscal years.

## 3.4 Analysis of complaints

Under the No FEAR Act, agencies in their annual reports must analyze certain complaint-related data, providing (1) an examination of trends; (2) causal analysis; (3) practical knowledge gained through experience; and (4) 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.<sup>34</sup> This analysis is provided below.

### Trends and causal analysis

#### Pending Complaints

At the end of FY 2018, the Bureau had 17 formal complaints from 15 complainants pending. (At the end of FY 2017, the Bureau had 16 formal complaints from 12 complainants pending.)

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<sup>32</sup> Under 5 C.F.R. § 724.102, "discipline" means any one or a combination of the following actions: reprimand, suspension without pay, reduction in grade or pay, or removal. Counseling is not a form of discipline.

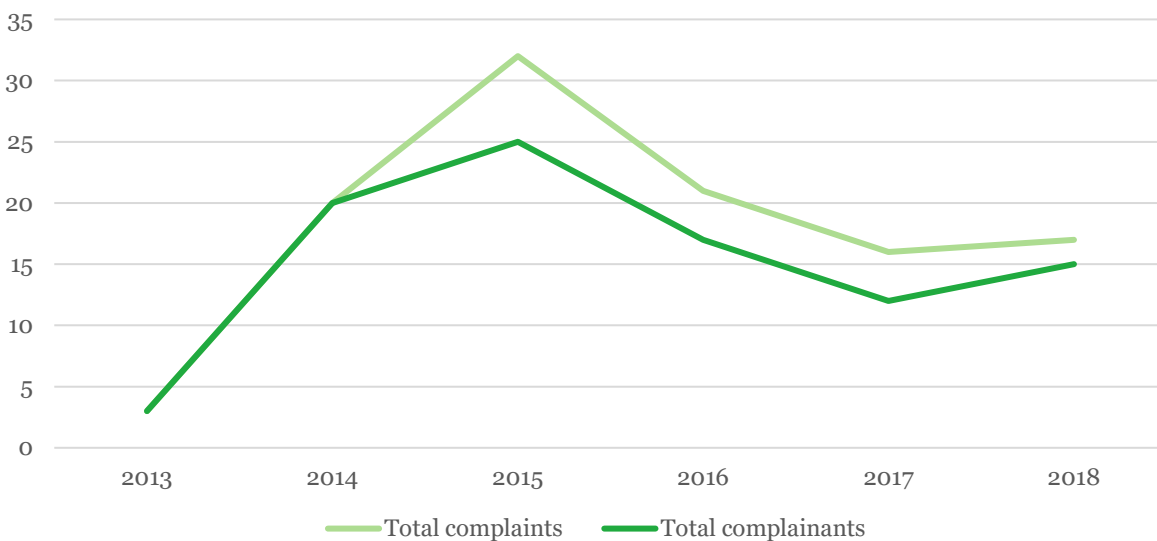
<sup>33</sup> See 5 C.F.R. §§ 724.302(a)(5), (a)(6).

<sup>34</sup> See Pub. L. No. 107-174, Section 203(a)(7); see also 5 C.F.R. § 724.302(a)(7).

As of the end of FY 2018, there were zero formal complaints filed in previous fiscal years (FY 2017 or prior) remaining in the investigation or ROI-issued/election phases. This was consistent with FY 2017 and FY 2016. As of the end of FY 2018, there were zero formal complaints pending in the Final Agency Action phase, down from one in FY 2017 and two in FY 2016. Fourteen complaints were pending at the hearing phase, compared to 12 in FY 2017 and 18 in FY 2016. Three complaints were pending at the appeal phase, compared to nine in FY 2017 and six in FY 2016.<sup>35</sup>

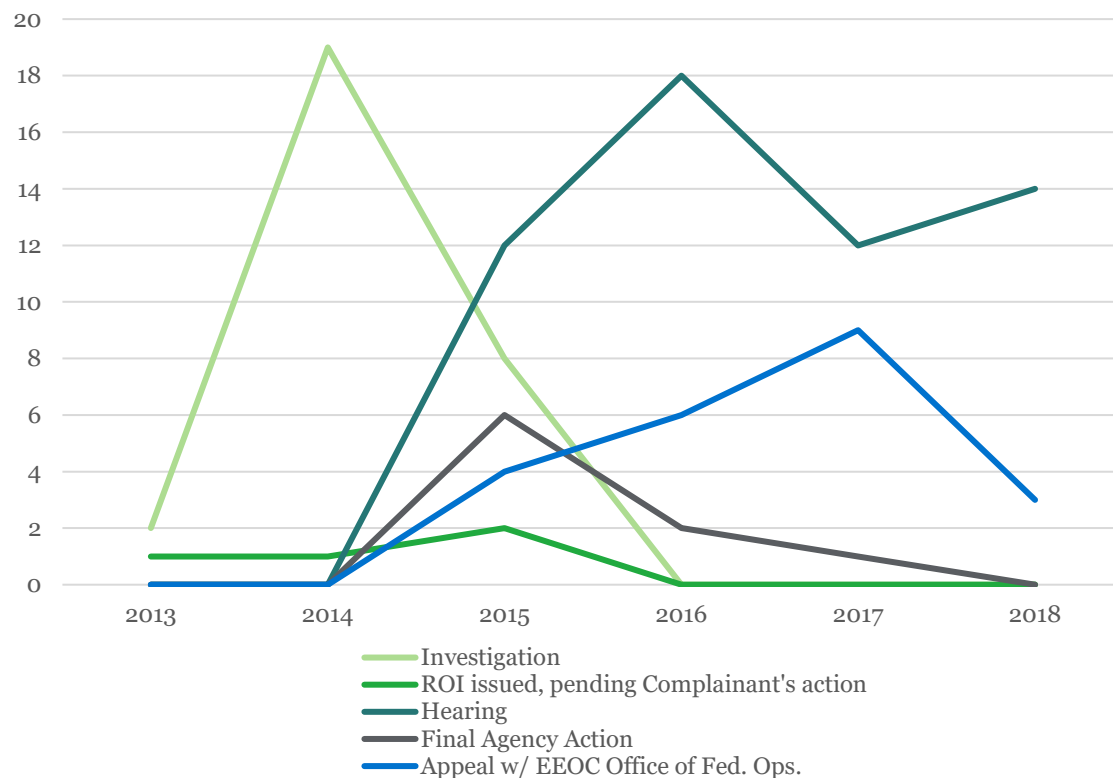
Figure 1 and Figure 2 present this data and related data for other previous fiscal years.

**FIGURE 1:** PENDING COMPLAINTS AND COMPLAINANTS FY 2013 – FY 2018



<sup>35</sup> Hearings and appeal stages of the Part 1614 EEO complaint process are managed by the EEOC. If a complainant requests an EEOC hearing the matter becomes adversarial and the Bureau's Legal Division (not OCR) represents CFPB as a party in the proceeding, including on any administrative appeal filed with EEOC's Office of Federal Operations.

**FIGURE 2:** PENDING COMPLAINT STATUSES FY 2013 – FY 2018



## Total New Complaint Filings and Number of Complainants

During FY 2018, the Bureau experienced an increase in the number of formal complaints filed compared with FY 2017 (from 5 to 21).<sup>36</sup> The nineteen complainants who filed formal complaints in FY 2018 represent 1.26 percent of CFPB's total workforce of 1,504 individuals. This represents an increase of 0.96 percent compared to FY 2017, when the ratio (of 5 complainants as a percentage of the total workforce of 1664 individuals) was 0.30 percent.

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<sup>36</sup> One of these complaints alleged a violation of Executive Order 11478 (as amended) only. The Bureau is processing this complaint pursuant to a policy the Agency has established to address such allegations. Thus, in FY 2018 CFPB received 20 new formal complaints filed (in whole or in part) under 29 C.F.R. Part 1614.



**TABLE 3:** COMPLAINANTS, COMPLAINTS, AND TOTAL WORKFORCE FIGURES AND RATIOS FOR CFPB FOR THE PAST SIX FISCAL YEARS

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
CFPB Formal Complaints	9	25	22 <sup>37</sup>	19	5	21
CFPB Complainants	9	24	19	18	5	19
CFPB Total Workforce <sup>38</sup>	1343	1419	1533	1652	1643	1504
CFPB Formal Complaints as Percentage of Total Workforce	0.67	1.75	1.44	1.15	0.30	1.40
CFPB Complainants as Percentage of Total Workforce	0.67	1.68	1.24	1.09	0.30	1.26
All Similarly Sized (Mid-Size) <sup>39</sup> Agencies (Complainants as Percentage of Total Workforce)	0.50	0.51	0.56	Not yet Reported	Not yet Reported	Not yet Reported
Government-wide (Complainants as Percentage of Total Workforce) <sup>40</sup>	0.50	0.49	0.51	Not yet reported	Not yet Reported	Not yet Reported

Figure 3 presents two graphs showing trends in informal and formal complaint activity from FY 2013 through FY 2018, along with corresponding figures for the total workforce at the end of

<sup>37</sup> In FY 2015, an individual also filed two notices with the EEOC signaling the individual's intention to file a civil suit against the Bureau under the Age Discrimination in Employment Act of 1967 (ADEA). Such notices of intent to file a civil action under the ADEA are not considered official EEO complaints under 29 C.F.R. Part 1614 and thus are not included in the total of formal EEO complaints filed in FY 2015. *See* 29 C.F.R. § 1614.201(a) ("As an alternative to filing a complaint under this part, an aggrieved individual may file a civil action in a United States district court under the ADEA against the head of an alleged discriminating agency after giving the [EEOC] not less than 30 days' notice of the intent to file such an action.").

<sup>38</sup> Workforce numbers for previous fiscal year No FEAR Act reports may differ slightly from corresponding data reported in this FY 2018 Report. This is due to retroactive processing of personnel actions, late processing of personnel actions, or other changes made in applicable data systems since those reports were published.

<sup>39</sup> Midsize or medium agencies are those with 1,000 to 14,999 employees. *See* EEOC's FY 2015 Annual Report on the Federal Workforce (May 2018), available at <https://www.eeoc.gov/federal/reports/fsp2015/index.cfm>.

<sup>40</sup> The most recent available government-wide statistics are contained in the EEOC's FY 2015 Annual Report on the Federal Work Force. *See* <https://www.eeoc.gov/federal/reports/fsp2015/index.cfm>; *see also* [https://www.eeoc.gov/federal/reports/fsp2015/462\\_b\\_tables.cfm](https://www.eeoc.gov/federal/reports/fsp2015/462_b_tables.cfm).

each fiscal year (FYE). These graphs allow a visual comparison of complaint volume for the past six fiscal years and data on changes in the Bureau's workforce over the same period.

**FIGURE 3:** CFPB INFORMAL AND FORMAL COMPLAINT ACTIVITY AND TOTAL WORKFORCE  
FY 2013 - FY 2018

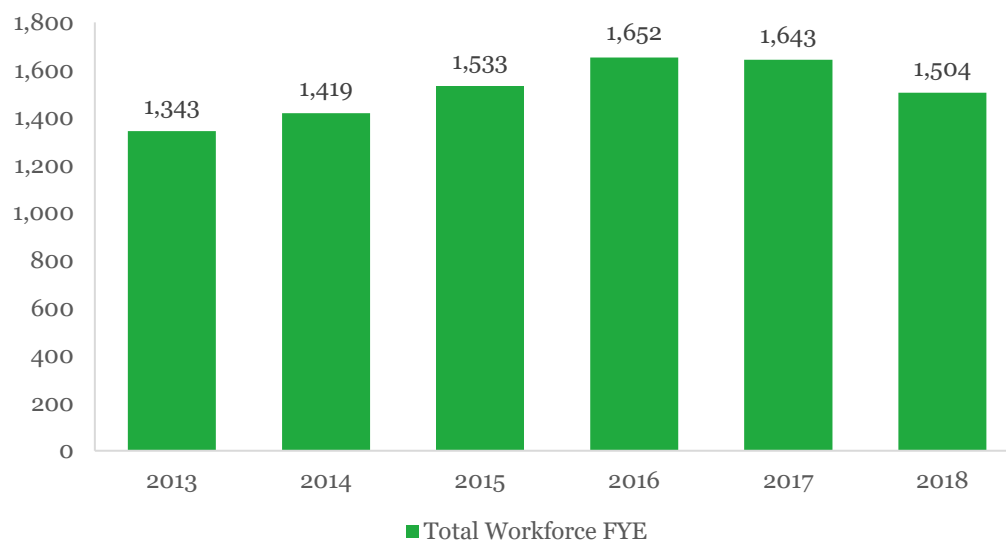
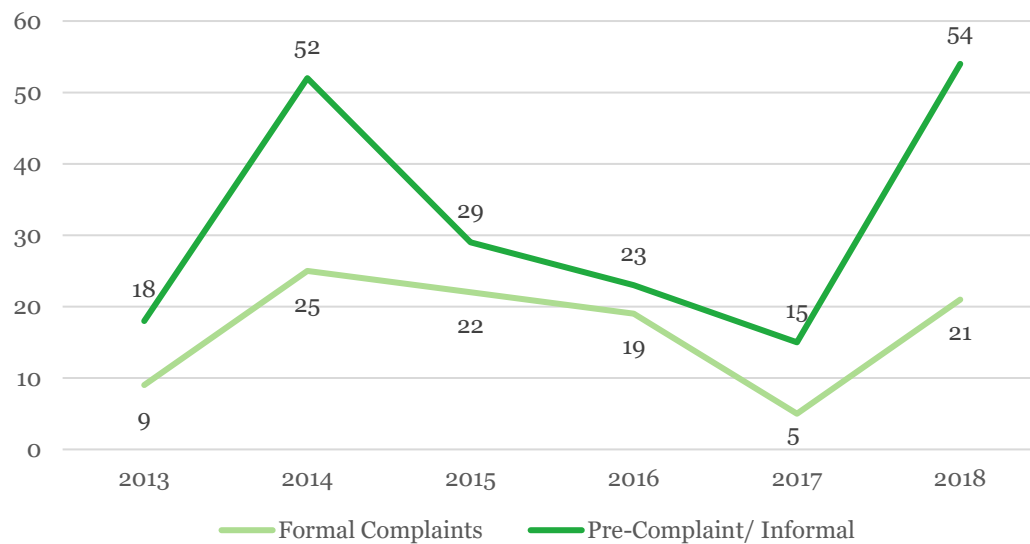
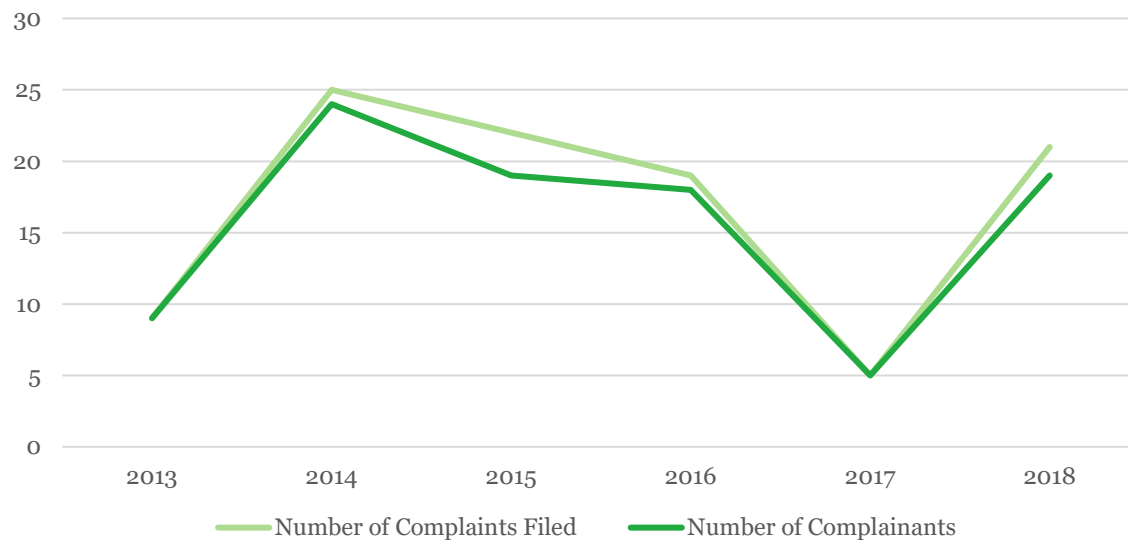


Figure 4 provides a graphical representation of formal complaint activity and complainant figures since FY 2013.

**FIGURE 4:** CFPB COMPLAINT ACTIVITY FY 2013 – FY 2018



## Bases and Issues

In FY 2018, the most frequently cited bases of discrimination in the 21 formal complaints filed were Race (13), Reprisal (12) and Sex (11).<sup>41</sup> In FY 2017 the most common bases alleged in the five formal complaints were Age (4), Reprisal (3), Sex (2) and Race (2). (Age, Color, and Disability were alleged five times each in FY 2018.)

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<sup>41</sup> Although there were 21 formal complaints filed in FY 2018, there are more than 21 total bases of discrimination alleged because a complainant may (and often does) assert more than one basis per complaint.

Figure 5 presents formal complaints by basis for FY 2018.

**FIGURE 5:** COMPLAINT ACTIVITY BY BASIS FY 2018

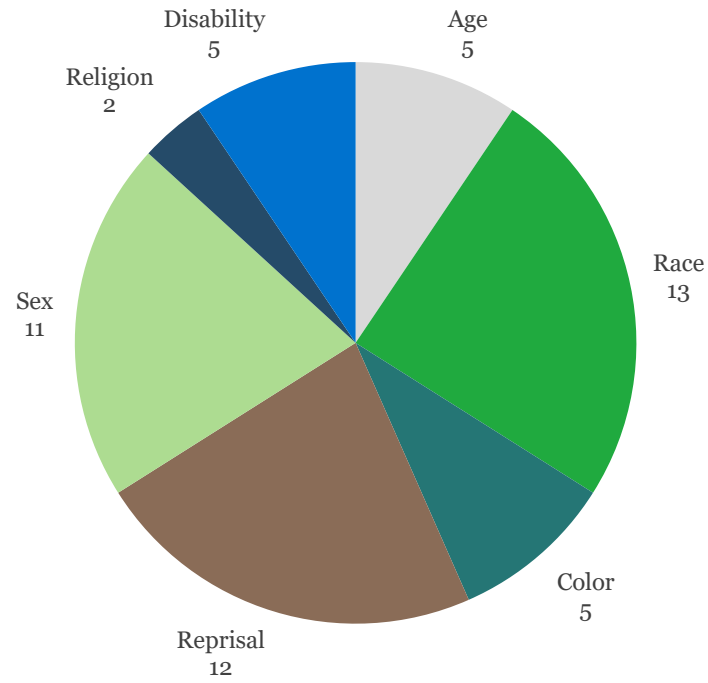
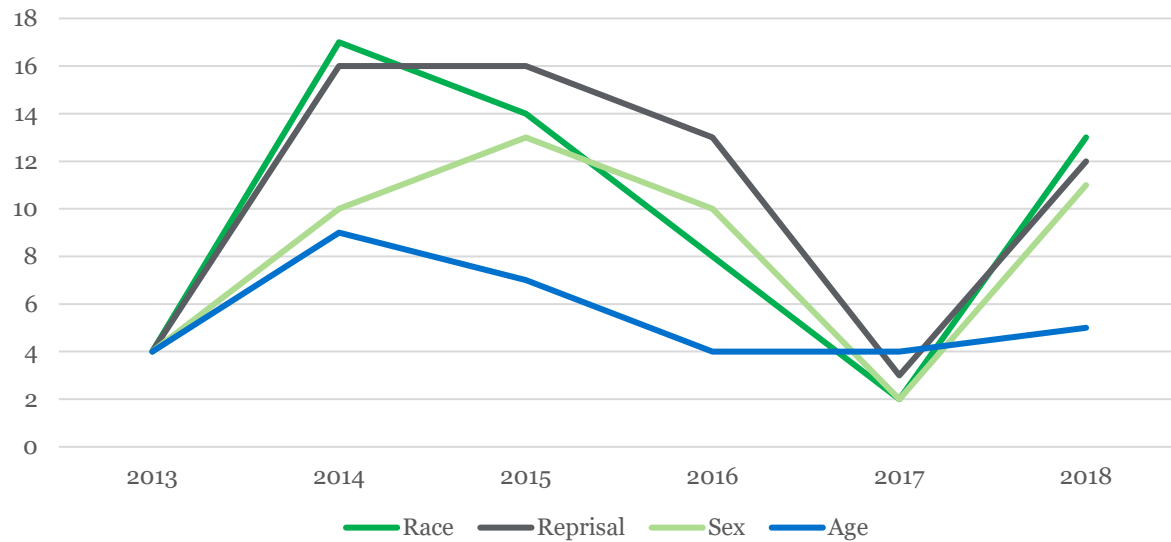


Figure 6 presents frequencies of bases appearing in the top three for any year from FY 2013 - FY 2018.

**FIGURE 6:** COMPLAINT ACTIVITY BY BASIS FY 2013 – FY 2018



The most frequently raised issues in formal complaints in FY 2018 were Harassment-Non Sexual (12), Assignment of Duties (8), and Terms/Conditions of Employment (7). In comparison, FY 2017's most frequently alleged issues were Appointment/Hire (2), Promotion/Non-Selection (2), Assignment of Duties (1), and Terms/Conditions of Employment (1).

Figure 7 presents formal complaints by issue for FY 2018.

**FIGURE 7:** COMPLAINT ACTIVITY BY ISSUE FY 2018

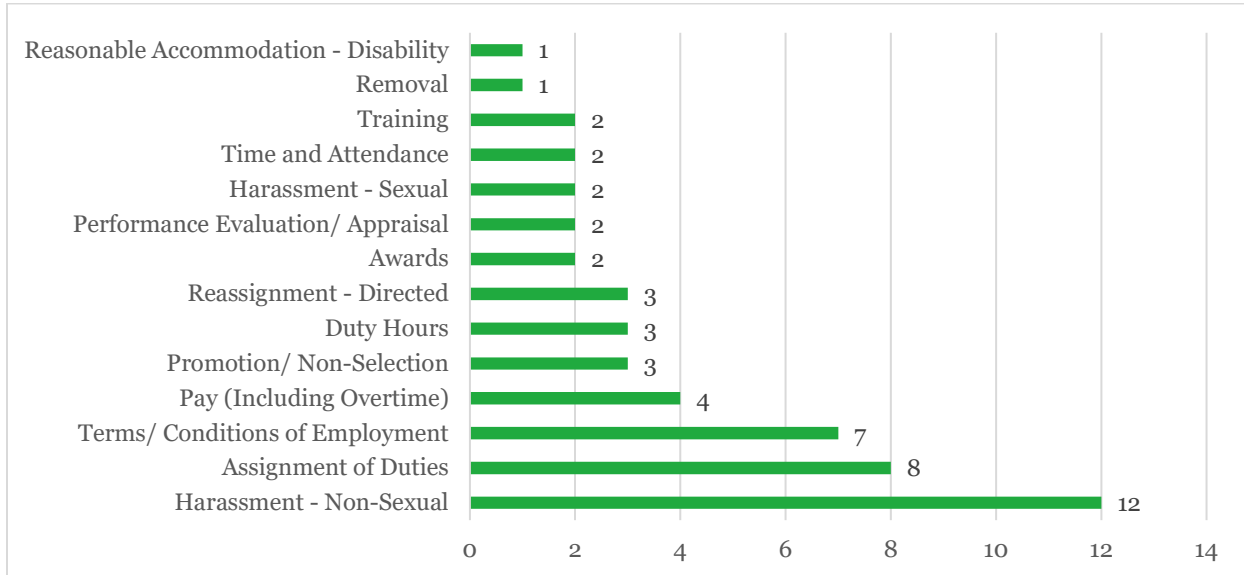
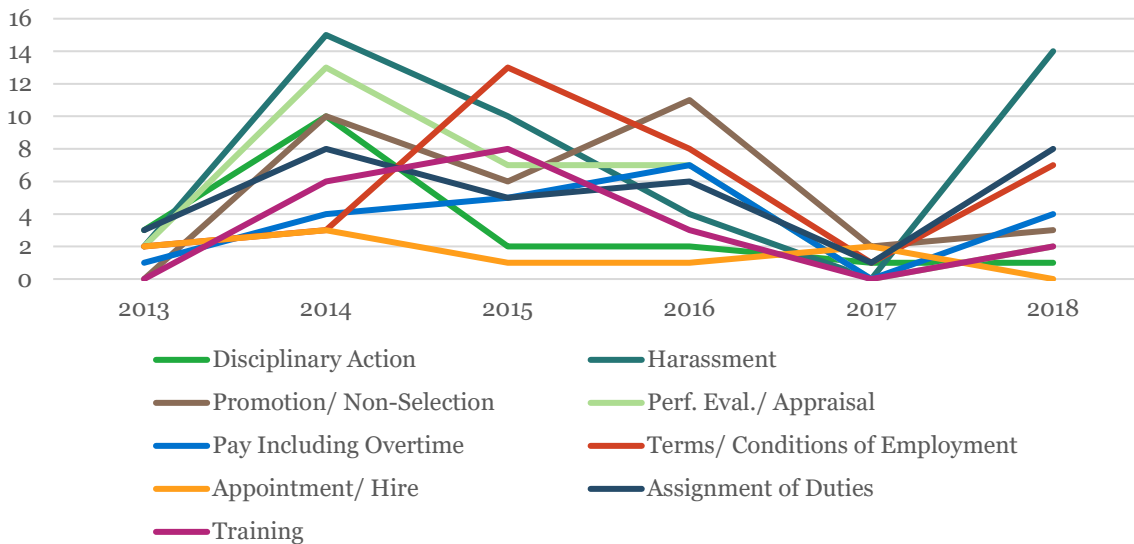


Figure 8 presents frequencies of issues appearing in the top three for any year from FY 2013 – FY 2018.

**FIGURE 8:** COMPLAINT ACTIVITY BY ISSUE FY 2013 – FY 2018



Bases and issues in CFPB formal complaint filings in FY 2018 were somewhat consistent with government-wide and comparable agency statistics. According to the EEOC, across the Federal government in FY 2015, Reprisal was the most frequently cited basis, followed by Age and Disability (physical).<sup>42</sup> Additionally, in FY 2018, Reprisal, Race, Sex, and Disability were among the most common complaint bases among other medium-sized financial regulatory agencies with at least 10 complaints<sup>43</sup>

The EEOC also reported that in FY 2015, the most frequently alleged issue in formal complaints was Non-Sexual Harassment, followed by Disciplinary Action and then Terms/Conditions of Employment.<sup>44</sup> In FY 2018, Non-Sexual Harassment, Performance Evaluation/Appraisal, Promotion/Non-Selection, Disciplinary Action, and Assignment of Duties were all among the most common issues for certain medium-sized financial regulatory agencies.

## Processing Times

In FY 2018, OCR completed 48 EEO counselings under Part 1614. (OCR received a total of 54 informal complaints/requests for EEO counseling during FY 2018; not all were completed before the end of FY 2018.) All counselings completed in FY 2018 qualified as timely under 29 C.F.R. § 1614.105. Eighteen counselings were timely completed within 30 days; 11 traditional counselings were completed timely with written extensions of no longer than 60 days. Nineteen counselings were processed through the Agency's ADR program and were timely completed within 90 days.<sup>45</sup> In each of these counselings, the Bureau provided the regulatorily required

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<sup>42</sup> See EEOC FY 2015 Annual Report on the Federal Workforce, Executive Summary, at Section B Table 6.6, *available at* <https://www.eeoc.gov/federal/reports/fsp2015/index.cfm>.

<sup>43</sup> FDIC data is located at <https://www.fdic.gov/about/diversity/nofear/nfreport.html>. OCC data is located at <https://home.treasury.gov/system/files/306/occ-qtr-1-fy2019.pdf>. SEC data is located at <https://www.sec.gov/eeoinfo/nofeardata.htm>.

<sup>44</sup> See EEOC FY 2015 Annual Report on the Federal Workforce, Executive Summary, at Section B Table 6.7, *available at* <https://www.eeoc.gov/federal/reports/fsp2015/index.cfm>.

<sup>45</sup> See 29 C.F.R. §§ 1614.105(d), (f).

notification to individuals of their various rights and responsibilities in the EEO process. This information was provided during the initial counseling session verbally and also later in writing.<sup>46</sup>

In FY 2018, 21 new formal EEO complaints were filed under Part 1614 – compared with only five in FY 2017. In all new formal complaints, CFPB issued acknowledgement letters immediately upon receipt of a formal complaint.<sup>47</sup> Of the 21 new formal complaints that were filed in FY 2018, the average length of time for issuing the acknowledgement letter was one day. In addition, OCR issued all Acceptance letters/Dismissal decisions within a reasonable time (e.g., 60 days) after receipt of the written EEO counselor's report.<sup>48</sup> Of the 21 new formal complaints that were filed in FY 2018, the average length of time for issuing the Accept/Dismiss communication was 13.4 days. In FY 2018, CFPB dismissed four formal complaints; the average days such complaints were pending before dismissal was 13.5.

In FY 2018, OCR generally conducted investigations of formal EEO complaints in a timely fashion.<sup>49</sup> Of the seven investigations completed during FY 2018, none were untimely; these investigations were completed in an average of 160 days. Thus, in FY 2018, 100 percent of Bureau formal complaints were processed within regulatory timeframes. This compares favorably with the government-wide average of 78 percent for the most recent year for which data is available.<sup>50</sup>

With respect to formal complaint processing, in FY 2018:

- Investigations of formal complaints were completed within an average of 160.00 days.

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<sup>46</sup> See 29 C.F.R. § 1614.105(b)(1).

<sup>47</sup> See MD-110, Chapter 5, at Section I.

<sup>48</sup> *Id.*

<sup>49</sup> See 29 C.F.R. § 1614.108(f).

<sup>50</sup> See EEOC FY 2015 Annual Report on the Federal Workforce, at B Table 7, available at [https://www.eeoc.gov/federal/reports/fsp2015/462\\_b\\_tables.cfm#b-7](https://www.eeoc.gov/federal/reports/fsp2015/462_b_tables.cfm#b-7) (Government-wide, a total of 10,983 investigations were completed in an average of 184 days in FY 2015. 77.76 percent of the investigations were completed in a timely manner. Without the United States Postal Service's (USPS) investigations, the government-wide average was 70.05 percent.).



- The average number of days in investigation for complaints pending for any length of time during the fiscal year (for which investigations were completed during the fiscal year) was 142.86, a decrease from an average of 238.20 days in FY 2017;
- The average number of days in investigation for complaints pending for any length of time during FY 2018 where a hearing was requested was 190.33, a decrease from an average of 240.83 days in FY 2017; and
- The average number of days in investigation for complaints pending for any length of time during FY 2018 where a hearing was not requested was 107.25, a decrease from an average of 243.33 days in FY 2017.

OCR also provides complainants with the regulatorily required “180-day letter” if an investigation is expected to go over 180 days. This letter notifies complainants of the date by which OCR expects to complete the investigation and informs complainants of their immediate right to request a hearing before an EEOC Administrative Judge or to file a lawsuit. Of the seven investigations completed during FY 2018, only one exceeded 180 days due to amendments that extended processing timelines under applicable regulations; in this matter, OCR provided the complainant the required “180-day letter” on or before the 180th day of the investigation.<sup>51</sup>

As of the end of FY 2018, CFPB had zero pending complaints where investigations exceeded the required time frames.

The average number of days in final-action status for complaints pending for any length of time during FY 2018 was 158.67. OCR issued three Final Agency Decisions (FADs) on the merits. The average length of time for issuing these FADs was 168 days. Two of the FADs were issued within an average of 54 days after the complainants’ election (or no election) – under the regulatory requirement of 60 days.<sup>52</sup> One FAD issued in early FY 2018 involved a finding of discrimination. It was issued after 395 days (significantly increasing the overall average days for FAD-issuance).

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<sup>51</sup> See 29 C.F.R. §1614.108(g).

<sup>52</sup> See 29 C.F.R. § 1614.110(b).

This processing time resulted from OCR holding the matter in abeyance while the parties engaged in settlement negotiations.<sup>53</sup> In FY 2018, the average length of time for issuing a FAD where the complainant failed to elect either a hearing or a FAD was 54.50 days.

As soon as OCR receives notice that a complainant has requested an EEOC hearing before an Administrative Judge (AJ) or has filed an appeal of a final agency action with EEOC's OFO, OCR uploads all documents to FedSEP (the EEOC's online (password-protected) federal-sector EEO portal).<sup>54</sup> The Agency also timely issues Final Agency Orders (FAOs) following receipt of any EEOC AJ decision and the associated hearings file.<sup>55</sup> In FY 2018, the average length of time for issuing FAOs (only one was issued in FY 2018) was 36 days.

## Practical knowledge gained

Since OCR was established in 2013, the office has worked to create a best-in-class EEO program at CFPB. These efforts have proven fruitful. For instance, during FY 2015, the Office of the Inspector General (OIG) of the Board of Governors of the Federal Reserve released the results of its audit to assess the efficiency and effectiveness of the Bureau's EEO D&I initiatives and EEO complaint processing program. The report, *CFPB Can Enhance Its Diversity and Inclusion Efforts*, issued on March 9, 2015, states that regarding the 29 C.F.R. Part 1614 complaint process:

- “CFPB has policies and procedures for each of its employee complaint processes [e.g., EEO complaints].”
- These “processes give employees the opportunity to have their complaints heard, investigated, and redressed in a fair and equitable manner.”

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<sup>53</sup> The matter was not resolved, and the FAD ultimately was issued in early FY 2018 by the OEOF Director on OCR's behalf.

<sup>54</sup> See 29 C.F.R. § 1614.403(g).

<sup>55</sup> See 29 C.F.R. § 1614.110(a).

- “CFPB adheres to several laws and regulations related to its OEEO [Office of Equal Employment Opportunity – i.e., OCR] and the processing of EEO complaints.”<sup>56</sup>

Other external stakeholders have similarly recognized the impact of the Bureau’s EEO and whistleblower-protections efforts. In FY 2018, CFPB met requirements for re-certification by the U.S. Office of Special Counsel (OSC) under OSC’s 5 U.S.C. § 2302(c) program. Under 5 U.S.C. § 2302(c), agency heads are required to ensure, in consultation with the Special Counsel and the Inspector General of the agency, that employees of the agency are informed of the rights and remedies available to them under the Civil Service Reform Act (CSRA), the Whistleblower Protection Act (WPA), the Whistleblower Protection Enhancement Act (WPEA), and related laws, such as the Dr. Chris Kirkpatrick Whistleblower Protection act of 2017 and the National Defense Authorization Act of Fiscal Year 2018 (NDAA). Together, these statutes provide important rights and remedies regarding federal-sector Prohibited Personnel Practices (PPPs) and whistleblower protections.<sup>57</sup>

OSC’s 2302(c) Certification Program allows federal agencies to meet the statutory obligation to inform their workforces about the rights and remedies available to them under the CSRA, the WPA, the WPEA, and satisfy the new requirements of the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017 and the NDAA. The program consists of four steps: (1) registration, (2) completion of five certification requirements, (3) submission of an annual certification checklist, and (4) application for certification or recertification every three years.<sup>58</sup>

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<sup>56</sup> This report is available at <https://oig.federalreserve.gov/reports/cfpb-diversity-inclusion-mar2015.htm>.

<sup>57</sup> See OSC 2302(c) Certification Program Information, available at <https://osc.gov/Pages/Outreach-2302Cert.aspx>.

<sup>58</sup> The five recertification requirements include: Placing informational posters at agency facilities; providing information about the 14 PPPs and whistleblower disclosures to new employees as part of the orientation process and no later than 180 days after the date the new employee begins performing service as an employee; providing information to current employees about the 14 PPPs and whistleblower disclosures on annual basis; training supervisors, in consultation with OSC, on the 14 PPPs and whistleblower disclosures every three years and providing annual supervisory training on how to respond to complaints alleging a violation of whistleblower protections; and displaying a link to OSC’s website on the agency’s website and intranet. *See id.*

In FY 2018, the Bureau's OCR, with assistance from the Agency's Legal Division and other stakeholders, submitted necessary documentation demonstrating CFPB's compliance with OSC's certification requirements. As a result, in May 2018 the Agency received re-certification.<sup>59</sup> This prompt re-certification further underscores the Agency's ongoing commitment to promote EEO and help ensure a discrimination-free work environment for all CCFB employees and applicants.

Year over year the OCR EEO complaints program continues to improve. OCR has taken important steps to reduce case-processing times, where feasible, while also increasing quality.

In FY 2018 OCR had a full-time EEO Complaints Program Manager – a first line supervisor formerly from the EEOC's Office of Federal Operations (OFO) with extensive experience as an Appellate Review Attorney and also as an EEOC Administrative Judge. This program manager is dedicated exclusively to maintaining and enhancing the quality and timeliness of all aspects of the Bureau's Part 1614 complaint process. OCR also has access to a data analyst (sited within OHC) to perform trend and other data analyses, such as identifying triggers and barriers to EEO throughout the Bureau. In addition, in FY 2018 OCR had a full-time ADR Program Manager to focus on enhancements to EEO and non-EEO alternative dispute resolution (ADR) options. Necessary support and additional program efficiencies will be gained given the hiring in FY 2018 of a new Attorney-Adviser (EEO) to help with processing formal complaints.

The OCR Director, the EEO Complaints Program Manager, and the ADR Program Manager (with help from other OCR staff) continued to make enhancements to the EEO complaints program in FY 2018, including:

- *Automating complaints-program management and analysis through use of the Micropact iComplaints platform.* This is a web-based EEO case management solution that provides a broad range of capabilities for reporting (including No FEAR Act and Form 462), processing, tracking, and managing the overall effectiveness of the CFPB's EEO complaints program. Since CFPB adopted this EEO complaints management solution in FY 2016, the platform has been instrumental in enhancing case-related processing efficiencies and easing the administrative burden associated with program-reporting obligations. The software has allowed OCR to more quickly and easily comply

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<sup>59</sup> See List of Federal Agencies Certified by OSC under 5 U.S.C. § 2302(c), at <https://osc.gov/Pages/2302status.aspx>.

with EEOC regulations and reporting obligations, identify and monitor internal EEO trends, and redirect staff time away from manual tracking and reviewing complaints data and towards work on other mission-critical projects. In FY 2018, OCR procured a new iComplaints “Executive Dashboard” add-on module that has begun to help OCR conduct more in-depth and systematic analysis of case processing (e.g., basis, issue, timeframes, etc.) trends.

- *Updating complaints program standard operating procedures and creating new complaints-related tools.* OCR’s complaints program follows the requirements, standards, and practices in 29 C.F.R. Part 1614. OCR has also developed additional tools to promote uniformity in all complaints program activities. For instance, OCR has developed and continues to update as needed an *OCR Operations Manual*, which provides detailed guidance and CFPB-specific procedures for processing informal and formal complaints. OCR also has developed more granular “Standard Operating Procedures” covering virtually every aspect of the EEO complaints process. In FY 2018, OCR added several new discrete SOPs dealing with topics including processing EEO complaints filed by alleged contractor personnel and processing “conflict” complaints. These resources facilitate consistent, timely processing of EEO matters.

In FY 2018, CFPB continued to use a combination of staff and contractors to carry out regulatory responsibilities related to both the informal and formal complaint processes. OCR employees are assigned to oversee the work of the contractors, and quality control measures have been put in place to ensure that contractors are providing quality work. These quality control measures include the use of “sufficiency” checklists for EEO Counselor Reports, Accept/Dismiss Letters, Investigative Plans, and Reports of Investigation (ROIs), and detailed reviews of all affidavits provided by witnesses to ensure responsiveness and completeness. The OCR Complaints Program Manager conducts regular check-ins with staff overseeing investigations (when available and if assigned) as well as with the investigator for all cases. Further, the OCR Complaints Program Manager meets regularly (weekly on average) with all OCR staff with complaints-related responsibilities to discuss all open cases, share necessary information, set priorities, and maintain a collective team focus on overall program success.

- *Fully implementing an onsite single-contractor model for EEO investigations.* In FY 2017, OCR entered into a Blanket Purchase Agreement with one contractor to assist OCR

with counselings, and with a separate contractor to conduct all formal complaint investigations. The contract investigator performs contractual duties in OCR office space for up to several days most weeks. This onsite model, which OCR continued to use throughout FY 2018, has improved data security by requiring the use of CFPB-issued equipment and email and has enabled the contractor to gain greater first-hand exposure to and familiarity with the culture and practices of CFPB. This crucial background knowledge helps inform Investigative Plans and expedite completion of ROIs. This onsite model also enables greater use of in-person witness interviews (OCR's preferred method). Similarly, the model facilitates ad hoc, time-sensitive, in-person consultations between the contract investigator and OCR staff. These efficiencies have improved the overall quality of OCR's EEO investigations and related work products to date. OCR's contract counselor and investigator provide consistent work product, have learned how the Agency works, and have adjusted to OCR's demanding quality standards.

These and other enhancements to the EEO complaints program implemented during FY 2018 have helped CFPB comply with all Part 1614 and MD-110 requirements and lower most overall processing times.

Yet EEO compliance involves more than mere complaint-processing. Over the past five years of enforcing EEO laws and Executive Orders at the Bureau, the OCR Director and staff have gained invaluable insights that have helped improve the Agency's overall EEO program. Lessons learned include:

- To sustain a viable EEO program, the EEO office must be authorized and empowered to drive a whole-of-agency strategy, by collaborating with Agency leaders, the diversity-and-inclusion office (OMWI), human capital management (OHC), and related stakeholders such as the union (NTEU), diversity councils (e.g., DICE), and Employee Resource Groups.
- A commitment from top-level leadership to EEO – including a commitment to affirmative employment (e.g., barrier analysis) efforts – shapes workplace culture, inspires employee confidence, and aids legal compliance. This commitment is best manifested through tangible actions by the Agency head and Senior Leaders to support EEO and visibly and actively incorporate the EEO program as a valued partner.
- Many substantive EEO concepts are complex, and new supervisors may sometimes struggle to apply complicated rules (e.g., those involving disability and anti-retaliation

laws). Consistent proactive prevention of discrimination, harassment, retaliation (including whistleblower retaliation), and other prohibited personnel practices – through repeated training, targeted technical assistance, and year-round EEOC-required barrier analysis – remains vital to guaranteeing workplace civil rights and upholding merit system principles.

- The federal-sector EEO process itself can seem confusing to new Executive branch employees, and often even to career civil servants. There are numerous, sometimes-overlapping sources of legal protection (e.g., via statutes, regulations, and Executive Orders) and various related enforcement processes (e.g., the 29 C.F.R. Part 1614 process, intra-agency harassment procedures, union grievances, Office of Special Counsel/Merit Systems Protection Board complaints). Accordingly, regular messaging reinforced through outreach can aid understanding and minimize confusion. In particular, explaining the differences between filing an EEO complaint alleging violations of federal law (through OCR) and reporting harassment under the Bureau’s anti-harassment policy (enforced by OHC) is important.
- Maintaining EEO office independence – e.g., preserving organizational autonomy from the Legal Division, the Office of Human Capital, and others with conflicting interests – is indispensable to safeguarding the statutory enforcement mechanisms Federal law and the EEOC require agencies to establish and maintain to remedy civil rights violations. This independence also is vital to fostering trust that the EEO program both is (and appears) impartial and separate from other Bureau offices with potentially conflicting interests. So, too, is vigorous enforcement of anti-retaliation rules designed to protect individuals who oppose discrimination, participate in EEO proceedings, or engage in protected whistleblowing activity.
- All organizational leaders must consider EEO and civil service protections before and while implementing new or changed policies, practices, procedures, and organizational matters that could affect the workforce; reaching out to the EEO Director early and often to obtain crucial input and feedback on personnel, budget, technology, and other workforce issues can help prevent potential EEO missteps and ensure EEO best practices are adopted.
- Resolving issues early and expeditiously helps maintain a work environment that fosters open communication, trust, and engagement. Used properly in appropriate circumstances, Alternative Dispute Resolution (e.g., mediation) can provide faster, less

expensive and contentious, and more productive results in eliminating workplace disputes, including claims of discrimination, harassment, and retaliation and workplace or personality conflicts that may arise. The Agency must be open to and make reasonable efforts to settle complaints of discrimination as early as possible in, and throughout, the administrative processing of complaints.

## EEO Program Action Plans

OCR has applied – and will continue to apply – the above experience and insights gained as the Bureau matures and the EEO program evolves. CFPB’s FY 2018 EEO Program Status (Management Directive 715) Report will provide a detailed review of the CFPB’s EEO program efforts and outline activities planned for FY 2019 and beyond.<sup>60</sup>

A primary focus throughout FY 2019 and beyond will be implementing the Bureau’s EEO and D&I-related strategic plans. CFPB’s strategic goals, objectives, and priorities reflect principles that prompted passage of the No FEAR Act itself.

The CFPB Strategic Plan for FY 2018-2022 – adopted and issued in February 2018 – makes Bureau leadership’s commitment to EEO explicit. This new Bureau-wide five-year Strategic Plan contains three Goals and accompanying Objectives and Strategies. The Plan’s third Goal is “Foster operational excellence through efficient and effective processes, governance and security of resources and information.”<sup>61</sup> Accordingly, one Objective under the third Goal is “Maintain a talented, diverse, inclusive, and engaged workforce.”<sup>62</sup> To achieve this Objective, the new Strategic Plan outlines various Strategies, including:

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<sup>60</sup> When finalized, this program status report will be posted on [www.consumerfinance.gov](http://www.consumerfinance.gov). (MD-715 reports for previous fiscal years also are currently available on this external website.)

<sup>61</sup> See Agency-wide Strategic Plan at 12, available at [https://www.consumerfinance.gov/documents/6208/BCFP\\_strategic-plan\\_fy2018-fy2022.pdf](https://www.consumerfinance.gov/documents/6208/BCFP_strategic-plan_fy2018-fy2022.pdf).

<sup>62</sup> *Id.*



- “Establish and maintain human capital policies and programs to help the [A]gency effectively and efficiently manage a talented, diverse, and inclusive workforce”;
- “Build a positive work environment that engages employees and enables them to continue doing their best work”; and
- *“Maintain comprehensive equal employment opportunity (EEO) compliance and diversity and inclusion programs, including those focused on minority and women inclusion.”*<sup>63</sup>

The Bureau’s Diversity and Inclusion Strategic Plan for FY 2016 through FY 2020 – as updated and reissued in November 2016 – further exemplifies and details this leadership commitment. Based on Executive Order No. 13583,<sup>64</sup> the Government-Wide Diversity and Inclusion Plan developed by the Office of Personnel Management (OPM) in 2011, existing regulations and guidance from the EEOC, and section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Bureau’s D&I strategic plan is built around six pillars: (1) workforce diversity; (2) workplace inclusion; (3) sustainability; (4) minority and women-owned businesses; (5) diversity practices of regulated entities; and (6) employment practices of regulated entities.<sup>65</sup> As the Bureau’s then-Director noted upon re-release of this plan, Bureau leadership was eager:

to work[] together with all BCFP employees to continue to develop an environment where we recognize how our own backgrounds, experiences, and values influence interactions with others, and in which we solicit, consider, and integrate diverse perspectives and viewpoints including those that challenge the status quo.<sup>66</sup>

The CFPB D&I Strategic Plan specifically lists the following (among others) as Bureau-wide priorities:

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<sup>63</sup> *Id.* at 13 (emphasis added).

<sup>64</sup> Exec. Order No. 13583, 76 Fed. Reg. 52,847 (Aug. 18, 2011).

<sup>65</sup> CFPB D&I Strategic Plan, at 6-7.

<sup>66</sup> *Id.* at 2.

- Demonstrating leadership commitment and accountability to fostering a workplace culture of diversity and inclusion, in part by affirming the value of legal compliance, workforce diversity, and inclusion efforts in CFPB’s strategic plan and related efforts to build a sustainable workplace culture;
- Promoting D&I in leadership development programs;
- Cultivating a supportive, welcoming, inclusive, and fair work environment;
- *Ensuring full and timely compliance with all Federal laws, regulations, Executive orders, management directives, and policies related to promoting D&I in the Federal workforce – including by requiring managers to ensure compliance with all anti-discrimination laws, regulations, policies, and guidance, and with accountability through performance plans; and*
- Involving employees as participants and responsible agents of diversity, mutual respect, and inclusion.<sup>67</sup>

In addition to implementing these strategic plans, in FY 2019 the Agency will:

- Continue to manage informal and formal EEO complaints appropriately;
- Support the ongoing stand-up of the OEOF’s DAP, including DAP efforts to continue implementing the EEOC’s affirmative action regulations under Section 501 of the Rehabilitation Act of 1973;
- Conduct ongoing barrier analyses required by the EEOC and OPM, including implementing actions plans that effectively address identified barriers;
- Create a strategic training plan to pilot new ways to educate the CFPB workforce on the No FEAR Act and related concepts;
- Continue to market the emerging Bureau-wide ADR Program as a tool to de-escalate all types of workplace conflicts, including the implementation of a conflict coaching program;

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<sup>67</sup> See generally CFPB D&I Strategic Plan, at 7-16.

- Collaborate with other offices to combine data and present to Division leaders on a quarterly basis to brief them on their general and aggregate complaint activity, potential triggers or barriers identified in their Division, harassment inquiry data, grievance data, separation data, AES and exit survey data, demographic data, and any other relevant data to help leaders identify issues within their offices; and
- Network with the federal sector EEO community to learn new best practices and innovative approaches that can be used in the Bureau's workplace.

More generally, the Bureau will focus on the following objectives during FY 2019 and FY 2020:

- Continuing to incorporate the EEOC's Six Essential Elements of a Model EEO Program to achieve greater program effectiveness;
- Briefing senior leadership on the state of the EEO program to reaffirm support for the program, provide awareness of issues and trends (systemic or otherwise), and solicit input on strengthening the Bureau's EEO program;
- Continuing to process all informal and formal complaints and requests for ADR in compliance with 29 C.F.R. Part 1614 and MD-110;
- Maintaining accuracy and efficiency of EEO complaint data monitoring, tracking, and reporting through continued use of iComplaints and continued enforcement of robust internal controls related to data tracking and monitoring;
- Leveraging internal communication channels to distribute EEO-related information through the use of various media, including electronic media, informational brochures, and individual and group training, and promoting communication of information and early intervention to help Bureau officials identify the issues and bases that may give rise to EEO complaints;
- Training supervisors and managers to provide proactive approaches to resolving issues stemming from alleged violations of personnel policies and practices;
- Fostering constructive, open, continuous communication between employees and management to help resolve workplace conflicts at the earliest possible opportunity, and ensuring that employees, management officials, and persons with settlement authority understand the purpose and value of ADR;

- Increasing employee awareness of EEO statutes and ensuring that CFPB cultivates an inclusive work environment;
- Continuing to collaborate with stakeholders across the Agency to analyze workforce demographic data and to establish and administer affirmative employment plans that ensure equal employment opportunity for all consistent with applicable law, rules, regulations, and guidance;
- Reviewing feedback from employee surveys, exit interviews, listening sessions, and training to identify opportunities for improvement;
- Training supervisors and managers on leadership, management principles, communication techniques, legal compliance, and fostering diversity and inclusion;
- Ensuring CFPB management is accountable for the success of the EEO program through transparency, by emphasizing measurable EEO and affirmative employment goals and objectives that are incorporated into Divisional strategic plans, and through the performance assessment of supervisors and managers;
- Supporting the implementation of Employee Resource Groups (ERGs) and staff-level diversity councils (e.g., DICE); and
- Incorporating EEO best practices gained through the Bureau's coalitions with other Federal agencies, particularly financial regulatory agencies and other small- and medium-sized agencies.

## 3.5 No FEAR Act training

The No FEAR Act requires each Federal agency to train all employees regarding the rights and remedies applicable to them under the relevant antidiscrimination and whistleblower protection laws.<sup>68</sup>

Each year, all CFPB employees must take a one-hour, web-based training on the No FEAR Act. Approximately 96.21 percent of employees completed this mandatory No FEAR Act training in

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<sup>68</sup> See Pub. L. No. 107-174, Section 202(c); *see also* 5 C.F.R. § 724.203.

FY 2018.

More generally, OCR, in partnership with other Bureau offices such as OHC and the Legal Division, works to ensure all employees are aware of, have physical copies of, and/or know where to access all EEO policies and procedures and related information. The Bureau makes use of virtually all of the ideas suggested by the EEOC in its September 2014 publication entitled *Preserving Access to the Legal System: A Practical Guide to Providing Employees with Adequate Information about Their Rights under Federal Equal Employment Opportunity (EEO) Laws and Regulations*.<sup>69</sup>

The Bureau places particular emphasis on disseminating information about, and training on, the EEO complaint process, Alternative Dispute Resolution (ADR) and CFPB's ADR program, the Bureau's anti-harassment policy and procedures (including behaviors that are inappropriate in the workplace and could result in disciplinary action), anti-retaliation protections (including whistleblower rights), and the Bureau's reasonable accommodation/Personal Assistance Services (PAS) policy and procedures.

The Bureau's EEO and Non-Discrimination Policy and its Reasonable Accommodation Policy and related Standard Operating Procedures are posted on [www.consumerfinance.gov](http://www.consumerfinance.gov).<sup>70</sup> In FY

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<sup>69</sup> This guidance is available at [http://www.eeoc.gov/federal/preserving\\_access.cfm](http://www.eeoc.gov/federal/preserving_access.cfm).

<sup>70</sup> These can be found at <https://www.consumerfinance.gov/office-civil-rights/eoo-policy-and-reports/> and <https://www.consumerfinance.gov/office-civil-rights/reasonable-accommodation-persons-disabilities/>. Recently, the Bureau reviewed and revised its disability-related reasonable accommodation policy and standard operating procedures to comply with EEOC's new affirmative action regulations under Section 501 of the Rehabilitation Act of 1973 and related guidance. See 82 Fed. Reg. 654 (Jan. 3, 2017); see also Questions and Answers: Federal Agencies' Obligation to Provide Personal Assistance Services (PAS) under Section 501 of the Rehabilitation Act (issued September 18, 2017), available at <https://www.eeoc.gov/federal/directives/personal-assistance-services.cfm>. In a letter dated February 9, 2018, the EEOC informed CFPB that its revised policy, SOPs, and forms had been approved in their entirety (without the need for any additional revisions), and comply with applicable EEOC regulations and guidance. The Bureau is now finalizing these documents internally to conform to recent programmatic and personnel changes – including the hiring of a new Disability Program Manager and the recent departure of the agency's previous Reasonable Accommodation Coordinator. The Bureau will disseminate and train appropriate staff on the revised policy and procedures (and forms), and post them on [www.consumerfinance.gov](http://www.consumerfinance.gov), as required under the new affirmative action regulations.

2018, the Bureau also overhauled the D&I content on this external website, providing a new and robust web hub showcasing the Agency’s commitment to D&I and EEO.<sup>71</sup>

In addition, all EEO-related policies and procedures are posted on OCR’s intranet page – a comprehensive portal for individuals needing information about the EEO process. The OCR intranet page – completely revised in early FY 2019 – describes the Part 1614 process and offers flowcharts and other learning aids for employees and contractors. The OCR intranet also contains plain-language Frequently Asked Questions (FAQs) with answers, which are updated and augmented routinely. These FAQs address dozens of EEO-related topics including protected bases, definitions for unlawful discrimination (including harassment and retaliation), reasonable accommodation for disability and religion, the EEO complaint process (including the 45-calendar day time limit for seeking EEO counseling from OCR), OCR’s role and responsibilities (including its emphasis on impartiality and independence from the Bureau’s Legal Division and OHC and the scope of its authority related to ordering interim relief), the use of “official” or work time for EEO matters, ADR, negotiated grievance procedures, and more. This section of the intranet also welcomes and solicits ideas for additional FAQs, encouraging those visiting the site to email OCR with suggestions for topics about which additional guidance or clarification could be helpful.

The OCR intranet page also contains contact and location information for OCR, including the OCR Director, Complaints Program Manager, ADR Program Manager, and EEO counselors. This helps ensure that Bureau employees can easily seek OCR’s assistance – including EEO counseling – in person or virtually. The Bureau also provides OCR contact information to members of the public on [www.consumerfinance.gov](http://www.consumerfinance.gov).<sup>72</sup>

Further, in FY 2018 OCR began an initiative to provide quick, bite-size EEO tips to all Bureau employees regularly through a new “EEO Tip of the Week” posted each week on the Announcements feed on the Agency’s main intranet page. OCR also periodically posted an “ADR Tip of the Month” on this same, highly visible all-employee platform. Some of the tips posted in FY 2018 are listed in Table 4 below.

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<sup>71</sup> This new content can be found at <https://www.consumerfinance.gov/about-us/diversity-and-inclusion/>.

<sup>72</sup> This can be found at <https://www.consumerfinance.gov/office-civil-rights/raise-eeo-issue/>.

**TABLE 4:** EEO "TIPS OF THE WEEK"

Select EEO Tips of the Week Posted on CFPB Intranet Homepage
Remember the 45-Calendar Day Time Limit for Seeking EEO Counseling from OCR
Know about "PPPs"!
Help Ensure a Harassment-free Workplace
Read the Acting Director's EEO and No FEAR Act Statements
Check and Update Your Demographic Info in HRConnect
Learn about CFPB's Affirmative Action Efforts for Employees with Disabilities
Spot and Stop Sexual Harassment in the Workplace
Read Your Paystubs! [E]very Earnings-and-Leave Statement you get has an EEO tip at the bottom
Check Out the Bureau's EEO-Related Annual Reports
Take "Respect in the Workplace" Training from EEOC
Spot and Avoid National Origin Discrimination
Managers -- Attend "Leading for Respect" Training
Check Out FAQs on the OCR Wiki
Avoid "Stereotyping" at Work
Discrimination Based on Sexual Orientation or Gender Identity is Unlawful
Keep All Medical Information Strictly Confidential
Don't Retaliate for EEO or Whistleblower Activity
Beware of Age Discrimination!
Quick Tips from OCR Webinars
Know Your Rights
Contractor Rights
Today is National Whistleblower Appreciation Day!
Don't Miss Tomorrow's Anti-Harassment Webinar

### Select EEO Tips of the Week Posted on CFPB Intranet Homepage

Know Your Rights (II)

Recognize Race/Color Discrimination

Complete the AES Survey!

Curious About What the Office of Civil Rights Does?

OCR will continue posting these tips throughout FY 2019.

The Director's Annual EEO and Anti-Harassment Policy Statement and Annual No FEAR Act Notice – disseminated in various ways to all employees as described above – reference EEO-related policies and contain detailed information about rights, responsibilities, and procedures under anti-discrimination and whistleblower protection laws. CFPB provides all new employees with copies of pertinent policies and procedures (including the Bureau's *Procedures on Harassment and Inappropriate Conduct* and *Reasonable Accommodation Policy* and related Standard Operating Procedures) during their onboarding and orientation through a live presentation. During this briefing, OCR staff distributes a hard copy *Guide to the Office of Civil Rights* (or equivalent information) to every new Bureau employee, in person, on or near their very first day of employment. This guide contains detailed information on discrimination, harassment, retaliation, reasonable accommodations, and the EEO process, including the Part 1614 process and the 45-calendar day time limit for seeking EEO counseling from OCR. It also contains handouts and fact sheets from the U.S. Office of Special Counsel and Merit Systems Protection Board on merit system principles, prohibited personnel practices, whistleblower protections, and the prohibition on whistleblower (and related) retaliation. OCR is updating the guide in FY 2019, and hopes to update and reissue it to all employees at least annually.

In addition, OCR created and distributes an *EEO Resource Manual for Managers and Supervisors* containing EEO policies and providing practical guidance on EEO compliance. OCR circulates this manual to new supervisors during the first pay period in which they are onboarded or promoted. OHC also sends each new manager a *CFPB New Manager Onboarding Information* guide also containing critical EEO and D&I information. Further, OHC maintains a Leadership Development Portal – a management-only online hub containing these and additional resources, facilitating easy virtual access to this information at any time. The Legal Division and OHC also consult with managers and supervisors regularly on an as-needed basis about personnel-related issues, including EEO matters, and provide advice and counsel on



relevant policies, practices, and procedures.

OCR conducts, collaborates with the Legal Division and OHC in presenting, and/or sponsors numerous in-person trainings on EEO-related topics, as well. For example:

- Consistent with the EEOC's renewed focus on preventing and eliminating workplace harassment, in FY 2018 CFPB offered the EEOC's new "Leading for Respect" (for supervisors) and "Respect in the Workplace" (for all employees) training.
- Approximately 10 new hires at the Bureau completed mandatory New Employee Orientation Training during FY 2018, during which OCR staff provides an overview of EEO rights and responsibilities (including explaining the Part 1614 process and emphasizing the 45-calendar day timeframe for contacting an EEO counselor). Typically, New Employee Orientation Training is conducted monthly or bi-monthly at the Bureau. Due to the current hiring freeze, only one Orientation training session was conducted in FY 2018 (Jan. 9, 2018).
- A total of 18 supervisors and managers completed a mandatory two-day EEO Training conducted by the EEOC Training Institute in FY 2018, for a total of over 248 to date. This training helps all managers and supervisors strengthen their skills in leading and managing a diverse and inclusive workforce.
- A total of 36 newly appointed supervisors completed the mandatory Supervisory Development Seminar (SDS) in FY 2018, and approximately 93 percent of all supervisors and managers have completed this seminar to date. SDS prepares new supervisors to navigate the transition to leadership by providing knowledge and skills for managing human resources in the Federal and CFPB environment, effectively using the CFPB performance management process, and addressing performance and conduct issues as they arise. OCR presented an EEO module during SDS covering workplace civil rights basics, practical EEO pitfalls for supervisors and managers, 29 C.F.R. Part 1614, and advanced considerations on complex topics (such as disability reasonable accommodations and Personal Assistance Services, differences between the Bureau's anti-harassment policy and procedures and the EEO process, and EEO considerations and sample scenarios related to performance management). OMWI and OCR co-presented a diversity and inclusion and EEO pitfalls module during the training covering the topic of Mitigating Bias in the Performance Management system, which included sample case studies, tips for managers to identify their own potential biases, and tools

for further learning and practice about how to mitigate such biases and avoid common pitfalls. The Bureau's Legal Division also presented a module at the seminar on merit systems principles and Prohibited Personnel Practices, including retaliation against whistleblowers. SDS covers CFPB policies and practices using scenarios, role plays, and discussions in a safe learning environment of CFPB manager peers. This experiential learning allows new Bureau leaders to translate concepts, policies, and processes acquired during instruction into understanding and practical application. SDS meets the U.S. Office of Personnel Management (OPM) mandate requiring that newly appointed supervisors complete training within the first year of their appointment to a formal supervisory position.

- Supervisors and managers also participate in additional mandatory leadership development courses that support EEO-related competencies as well as leadership competencies and the Bureau's leadership performance standards. 81 percent of all Bureau managers completed these mandatory courses as of December 2018. The Bureau's leadership development courses are designed to meet specific leadership development needs as identified in the OPM Employee Viewpoint Survey results (referred to at the Bureau as the "Annual Employee Survey" (AES)), as well the performance expectations outlined in the Bureau's leadership competency model.
- CFPB's ADR Program offered "Crucial Conversations" training to approximately 306 managers and employees over six different training sessions during FY 2018. Crucial Conversations is a conflict-prevention training intended to help individuals have important (and sometimes difficult) high-stakes conversations. The Bureau has offered Crucial Conversations to all Divisions and teams, and the training has been provided to managers and employees in the Office of CFPB Director, and in SEFL, RMR, CEE, and OPS Divisions. Feedback thus far on the course has been overwhelmingly positive with virtually all participants agreeing or strongly agreeing that the course provided skills that would help with their professional duties.
- A total of 211 employees completed mandatory D&I training hosted by OMWI in FY 2018. CFPB offers this two-hour awareness-raising workshop to non-managerial employees to help develop a shared understanding of diversity and inclusion at the Bureau. The workshop focuses on the importance of D&I in strengthening individual competence for interacting effectively in a diverse workplace and the ways in which an understanding of D&I contributes to the effectiveness of the Bureau's work. As of the end

of FY 2018, 1596 employees had completed this training (a completion rate of 89.5 percent of current Bureau employees).

- The training entitled, “Leading Diversity and Inclusion at the Bureau,” focuses on diversity and inclusion best practices, tips, and tools for managers. Between 2015, when the training began, through FY 2018, approximately 270 supervisors have completed this mandatory two-day diversity training. A total of 24 supervisors and managers completed the training in FY 2018.
- A total of 20 lead interviewers and/or hiring managers completed Structured Interview training. Overall, approximately 295 total employees have completed this training since the training began in 2014. Structured Interview training helps eliminate bias in the interviewing process, ensure a fair and open competition for CFPB jobs, and minimize legal risk. This training includes modules on key EEO and D&I concepts.
- A total of 1175 employees (97.8 percent) and 287 rating officials (98.6 percent) completed mandatory performance-management training (also containing EEO and D&I components) in FY 2018.
- A total of 263 (87 percent) of all Bureau Supervisors, Managers, and Executives completed mandatory training on reasonable accommodations practices and procedures.

In FY 2018, OCR also continued to offer its “Top 10 EEO Tips” series of optional webinars for all Bureau employees. This series of virtual brownbag presentations by OCR is designed to be relevant to all CFPB personnel (managers/supervisors and non-supervisory employees), and provides easily accessible – 30 minutes maximum – training in the form of practical tips on EEO rights and responsibilities. During FY 2018, OCR offered webinars entitled “#MeToo - What You Should Know About Workplace Harassment” and “Top 10 Tips to Know About the Office of Civil Rights.” OCR will continue to offer new webinars as part of this series in FY 2019. Further, during FY 2018, OMWI offered several workshops to teams in Divisions on topics including Unconscious Bias, Micro-Triggers, and Generational Difference in the Workplace. These workshops increased awareness and understanding of D&I and helped to strengthen cohesion among teams. The workshops were well received, and more are being planned in FY 2019.

Finally, each year all Bureau employees must take a one-hour, web-based training on Sexual Harassment Prevention. Approximately 96.70 percent of employees completed this mandatory

Sexual Harassment Prevention training in FY 2018.

These and other means and media used to train employees and distribute EEO and D&I information are summarized in Table 5 below.

**TABLE 5: MEDIA USED TO DISTRIBUTE EEO INFORMATION TO CFPB EMPLOYEES**

<b>Media Used To Distribute EEO Information to CFPB Employees</b>
Regular email notifications via email/digital <i>Ops Digest</i> and <i>Manager Minute</i> publications
Regular email messages from the CFPB Director and OCR Director
Periodic messages in <i>OMWI Perspectives</i> (a digital diversity and inclusion newsletter)
Annual statements from the CFPB Director on the No FEAR Act and on the Bureau's EEO Policy and Anti-Harassment Policy, provided in email, posted on the Bureau's intranet, distributed in hard copy, and displayed on physical stands throughout Bureau workspaces
Posters placed throughout all Agency facilities in break rooms and work rooms
A brochure on EEO rights and responsibilities
A brochure on Alternative Dispute Resolution and CFPB's ADR Program
Display stands with relevant hard-copy information placed near every elevator bank in CFPB facilities, in OHC, and in OCR office space
Digital Display Boards (i.e., large monitors) in elevator banks in CFPB headquarters featuring rotating slides including brief messages on EEO and D&I inclusion-related topics
<i>Guide to the Office of Civil Rights</i> (distributed in hard copy immediately to all new employees)
<i>EEO Resource Manual for Managers and Supervisors</i> (provided in hard copy to all new supervisors and during mandatory two-day EEO training and by email to all new supervisors and managers during the pay period in which they are hired or promoted)
Intranet and internet content, including all relevant policies and Frequently Asked Questions about OCR and discrimination-related topics, and periodic all-employee "Announcements" on the homepage of the Bureau's intranet
New "EEO Tip of the Week" and "ADR Tip of the Month" feature on the homepage of the Bureau's intranet
EEO-related notices on employee paystubs (containing a new notice each pay period)

### **Media Used To Distribute EEO Information to CFPB Employees**

Formal training and workshops including New Employee Orientation (NEO); mandatory online annual No FEAR Act and harassment prevention trainings; mandatory Supervisory Development Seminar (SDS); mandatory Leadership Excellence Seminars (LES); mandatory two-day manager EEO training led by the EEOC Training Institute; mandatory two-day diversity and inclusion training for new supervisors; mandatory diversity and inclusion training for all employees; mandatory Performance Management training; Structured Interview training for lead interviewers; D&I workshops; ADR-related “Crucial Conversations” training to prevent workplace conflicts; EEOC-led “Leading for Respect” and “Respect in the Workplace” workshops

OCR “Top Ten EEO Tips” Webinars

OMWI D&I Brownbag Sessions

## APPENDIX A:

# Legislative and regulatory language

Section 203 of the No FEAR Act (Pub. L. No. 107-174) requires:

(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 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 C.F.R. Part 724 requires:

### § 724.302 Reporting obligations.

(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;
- (2) President Pro Tempore of the U.S. Senate;
- (3) Committee on Governmental Affairs, U.S. Senate;
- (4) Committee on Government Reform, U.S. House of Representatives;
- (5) Each Committee of Congress with jurisdiction relating to the agency;
- (6) Chair, Equal Employment Opportunity Commission;
- (7) Attorney General; and
- (8) Director, U.S. Office of Personnel Management.

## APPENDIX B:

# EEO and anti-harassment policy statements



1700 G Street NW, Washington, D.C. 20552

**February 2019**

**MEMORANDUM TO:** All CFPB Employees

**FROM:** Kathleen L. Kraninger  
Director

**SUBJECT:** FY 2019 EEO and Anti-Harassment Policy Statement

Dear Colleagues:

I am pleased to re-issue the Bureau's Policy Statement on Equal Employment Opportunity (EEO) and Workplace Harassment. It is attached to this memorandum.

Every CFPB employee should be able to compete on a level career playing field. That's what "EEO" is all about. Eliminating discrimination and harassment and building and retaining a diverse and inclusive workplace – these are top priorities for me as a leader, and important values to me as a person.

Throughout my federal career, I've worked in many different settings and interacted with all kinds of colleagues. Some universal workplace truths have become crystal clear to me: First, high-performing organizations need and seek out all kinds of perspectives and personalities to solve their most vexing problems. We can't afford to leave anyone on our team out or behind. Second, no one – and I mean no one – can do their best work if they are distracted and demoralized by discrimination, such as harassment or retaliation. Third, workers need to believe that leadership has committed itself to continual improvement, and that managers will hold *all* team members – regardless of grade or position – accountable for mistreatment and misconduct. Fourth, an energized and engaged team working collaboratively towards a worthy shared goal can accomplish more together than individual team players alone ever could. The whole truly is greater than the sum of the parts. And fifth and finally, most of the time the right thing to do is the hard thing to do. Bringing about workplace culture changes can be arduous and frustrating. But taking the easy road rarely leads to lasting improvements.

The Bureau's Office of Civil Rights, Office of Women and Minority Inclusion, Office of Human Capital, and Legal Division have experts who are available to assist you with any specific questions you may have. So let's roll up our sleeves together to do the things we need to do to make this the best workplace it can be for *all* of us. Thank you.

Kathleen L. Kraninger  
Director

## **The CFPB Policy Statement on Equal Employment Opportunity and Workplace Harassment**

### **General EEO Policy**

It is the policy of the Consumer Financial Protection Bureau (CFPB or Bureau) to provide equal employment opportunity (EEO) to all employees and applicants for employment. The CFPB has no tolerance for workplace discrimination, harassment, or retaliation.<sup>1</sup> We take all allegations of discrimination, harassment, and retaliation seriously.

We all deserve to work in an environment where we will be treated fairly and equitably, and where we can participate fully in all benefits of employment, including recruitment, hiring, compensation, appraisals, awards, training and career development, promotions, transfers, reassignments, and other terms, conditions, and privileges of employment.

Accordingly, the Bureau does not and will not tolerate discrimination or harassment against any employee or applicant for employment on the basis of race, color, religion, sex (including pregnancy, sexual orientation, transgender status, gender identity or expression, gender non-conformity, or sex stereotyping of any kind), national origin, age (40 and above), disability, genetic information, marital status, parental status, political affiliation, military service, union activities, protected EEO activity, whistleblower activity, or any other non-merit factor. Discrimination and harassment on these bases is prohibited by Federal statutes and Executive Orders.

### **Discriminatory Harassment Defined**

CFPB will not tolerate any discriminatory harassment – *even when the hostile or abusive conduct does not rise to the level of a violation of Federal law*. Discriminatory harassment is unwelcome or offensive treatment, behavior, or conduct – whether sexual or non-sexual, and whether verbal, physical, visual, or psychological – that denigrates, shows hostility or aversion towards, or otherwise marginalizes an individual based on that individual’s protected status, and that a reasonable person would consider

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<sup>1</sup> You can also learn more about protections against various forms of retaliation and for whistleblowers in our [FY 2019 No FEAR Act Notice](#).

intimidating, hostile, or abusive or that interferes with an individual's work performance.

Offensive conduct includes unwelcome sexual overtures, propositions, or contact; basing employment decisions (or conditioning any benefit or privilege of employment) on acquiescence to verbal or physical sexual or romantic conduct; telling inappropriate jokes or stories; ridiculing, insulting, or mocking a colleague or co-worker; using slurs or epithets; or physically assaulting, bullying, or intimidating others. Offensive conduct also could include displaying objects, pictures, or graphic materials, or making or disseminating comments or statements that are offensive to, or show hostility towards, an individual or group.

Harassment can violate Bureau policy if it occurs because of *any* of the protected bases outlined above. For instance, harassment prohibited under Bureau policy includes (but is not limited to) denigrating someone because of their religion, mocking someone because of a physical or mental disability, and uttering offensive racial epithets.

The Bureau prohibits discriminatory harassment by *anyone* in the workplace – including harassment by managers, supervisors, and co-workers. In addition, the Bureau will not tolerate discriminatory harassment by non-employees, such as contractors and employees of regulated entities.

### **Employee Rights and Responsibilities**

As Bureau employees, it is up to each one of us to ensure we understand and adhere to these principles. Each one of us will be held accountable for compliance with EEO laws and merit system principles and policies, and for treating colleagues with respect, dignity, and professionalism.

Employees who believe that they are being harassed or otherwise have been subjected to offensive (e.g., hostile or abusive) conduct may, but are not required to, make their objections known to the offending party. If employees do not want to talk to the offending party, or if the harassment continues even after doing so, employees should also contact their supervisor, manager, a higher level management official, or the Lead of the [Employee and Labor Relations team](#) in the [Office of Human Capital](#) (OHC) (currently [Ari Taragin](#)).

Employees who believe they have been harassed have a duty to report the incident so the Bureau can investigate the allegations and take necessary steps to stop the offensive conduct. Employees should report any harassment *before* it becomes so severe or pervasive that it violates Federal law. While isolated incidents of harassment generally do not violate federal law, a pattern of such incidents may be unlawful. Similarly,

employees who believe they have witnessed harassing conduct also have a duty to report the incident. CFPB will protect the confidentiality of individuals reporting such conduct to the fullest extent possible.

### **Manager/Supervisor Rights and Responsibilities**

Managers and supervisors have a special responsibility to prevent, document, and promptly correct harassing conduct in the workplace. Managers and supervisors receiving reports of alleged harassment or who believe they have potentially or actually witnessed any such behavior *must* immediately contact the Lead of the [Employee and Labor Relations team](#) in the [Office of Human Capital](#) (OHC) (currently [Ari Taragin](#)).

The Bureau will take appropriate and immediate action in response to complaints about or knowledge of violations, in accordance with the Bureau's [Procedures Related to Harassment and Inappropriate Conduct](#). Management will take appropriate corrective action as needed.

### **Protection Against Retaliation**

The Bureau supports the right of any employee who believes they have been discriminated against or harassed (or witnessed discrimination or harassment) to oppose unlawful discrimination or harassment, to file a complaint about it, or to participate in any related inquiry or investigation without fear of retaliation. *Managers and supervisors must not retaliate against an employee for reporting harassment or for cooperating with any harassment investigation. Any retaliatory action will result in appropriate disciplinary action against the manager or supervisor.*

### **Filing an EEO Complaint for Violations of Law**

Employees who believe they have experienced *unlawful* prohibited conduct should promptly contact the [Office of Civil Rights](#) (OCR) to discuss their rights under the EEO laws. ***You must contact OCR to request EEO counseling within 45 calendar days of the occurrence of conduct you believe is unlawful; failure to meet these timeframes could result in the forfeiture of your legal right to redress the harassment.*** (Contact information for OCR is provided below.)

Reporting harassment to OHC does *not* satisfy your obligation to contact OCR within 45 calendar days to seek legal redress for violations of EEO laws. Further, if you contact OCR to report unlawful harassment, OHC may still undertake its own independent internal investigation of the allegations to satisfy its obligations to exercise due care to promptly eliminate all hostile or abusive conduct in the workplace.

## **Additional Information**

You can [read our complete EEO and Non-Discrimination Policy](#).

You can [read the Equal Employment Opportunity Article](#) in the CFPB-NTEU Collective Bargaining Agreement.

You can [find the complete CFPB Procedures Related to Harassment and Inappropriate Conduct](#).

You can read some [FAQs about the Office of Civil Rights](#) and its work.

You can find additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws on:

- the CFPB's intranet at <http://team.cfpb.local/wiki/index.php/EEO>
- the EEOC website at <http://www.eeoc.gov>
- the OSC website at <http://www.osc.gov>
- the Veterans' Employment and Training Service website at <https://www.dol.gov/vets/>
- the MSPB website at <http://www.mspb.gov>
- the FLRA website at <http://www.flra.gov>

## **Contact Information for the CFPB's Office of Civil Rights**

### **U.S. Postal Service Mail:**

Office of Civil Rights  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, D.C. 20552

### **Hand-Delivery:**

Office of Civil Rights  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Sixth Floor  
Washington, D.C. 20552

**Phone:**

202-435-9EEO  
1-855-233-0362  
202-435-9742 (TTY)

**E-mail:**

[CFPB\\_EEO@cfpb.gov](mailto:CFPB_EEO@cfpb.gov)

**Fax:**

202-435-9598



**February 2018**

**MEMORANDUM TO: All CFPB Employees**

**FROM: Mick Mulvaney  
Acting Director**

**SUBJECT: FY 2018 EEO and Anti-Harassment Policy  
Statement**

Dear Colleagues:

I am pleased to issue the Bureau's Policy Statement on Equal Employment Opportunity (EEO) and Workplace Harassment. It is attached to this memorandum.

Every CFPB employee (and applicant for employment) deserves an equal chance to compete and to succeed in the workplace as far as their talents and hard work will take them. That's what "EEO" is all about. And I am personally committed to making this a fair and discrimination-free place to work.

We have all seen the news reports in recent months about the sexual harassment that has occurred at various companies and industries across the country. The federal government certainly is not immune to this problem. But as the attached policy statement makes perfectly clear, under my watch here at the CFPB we will not tolerate any form of harassment — sexual or otherwise. Instead, we will act aggressively to prevent, stop, and remedy it.

I understand that the Office of Civil Rights (OCR) and the Office of Human Capital (OHC) provide training and educational resources on harassment and other discrimination topics. I expect all of you to take these trainings and to take them seriously. I also expect you to read this EEO policy statement and the Bureau's related anti-harassment procedures, and to become very familiar with them. They're short, and understanding and complying with them is crucial.

Speak out when you see some sort of harassment happening here. Confront the perpetrator directly if you are able. Report the misconduct through appropriate channels (e.g., to a supervisor or OHC or OCR). And cooperate fully and promptly with any and all investigations OCR or OHC may conduct into allegations of discrimination, harassment, and retaliation.

Rooting out distracting and demoralizing workplace discrimination is on all of us. I'll do my part, and as Bureau colleagues you each must also do yours.

Thank you.

Mick Mulvaney  
Acting Director

## **The CFPB Policy Statement on Equal Employment Opportunity and Workplace Harassment**

### **General EEO Policy**

It is the policy of the Consumer Financial Protection Bureau (CFPB or Bureau) to provide equal employment opportunity (EEO) to all employees and applicants for employment. The CFPB has no tolerance for workplace discrimination, harassment, or retaliation.<sup>1</sup> We take all allegations of discrimination, harassment, and retaliation seriously.

We all deserve to work in an environment where we will be treated fairly and equitably, and where we can participate fully in all benefits of employment, including recruitment, hiring, compensation, appraisals, awards, training and career development, promotions, transfers, reassignments, and other terms, conditions, and privileges of employment.

Accordingly, the Bureau does not and will not tolerate discrimination or harassment against any employee or applicant for employment on the basis of race, color, religion, sex (including pregnancy, sexual orientation, transgender status, gender identity or expression, gender non-conformity, or sex stereotyping of any kind), national origin, age (40 and above), disability, genetic information, marital status, parental status, political affiliation, military service, union activities, protected EEO activity, whistleblower activity, or any other non-merit factor. Discrimination and harassment on these bases is prohibited by Federal statutes and Executive Orders.

### **Discriminatory Harassment Defined**

CFPB will not tolerate any discriminatory harassment – *even when the hostile or abusive conduct does not rise to the level of a violation of Federal law*. Discriminatory harassment is unwelcome or offensive treatment, behavior, or conduct – whether sexual or non-sexual, and whether verbal, physical, visual, or psychological – that denigrates, shows hostility or aversion towards, or otherwise marginalizes an individual based on that individual's protected status, and that a reasonable person would consider intimidating, hostile, or abusive or that interferes with an individual's work performance.

Offensive conduct includes unwelcome sexual overtures, propositions, or contact; basing employment decisions (or conditioning any benefit or privilege of employment) on acquiescence to verbal or physical sexual or romantic conduct; telling inappropriate jokes or stories; ridiculing, insulting, or mocking a colleague or co-worker; using slurs or epithets; or physically assaulting, bullying, or intimidating others. Offensive conduct also could include displaying objects, pictures, or graphic

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<sup>1</sup> You can also learn more about protections against various forms of retaliation for whistleblowers in our annual [No FEAR Act Notice](#).

materials, or making or disseminating comments or statements that are offensive to, or show hostility towards, an individual or group.

Harassment can violate Bureau policy if it occurs because of *any* of the protected bases outlined above. For instance, harassment prohibited under Bureau policy includes (but is not limited to) denigrating someone because of their religion, mocking someone because of a physical or mental disability, and uttering offensive racial epithets.

The Bureau prohibits discriminatory harassment by *anyone* in the workplace – including harassment by managers, supervisors, and co-workers. In addition, the Bureau will not tolerate discriminatory harassment by non-employees, such as contractors and employees of regulated entities.

### **Employee Rights and Responsibilities**

As Bureau employees, it is up to each one of us to ensure we understand and adhere to these principles. Each one of us will be held accountable for compliance with EEO laws and merit system principles and policies, and for treating colleagues with respect, dignity, and professionalism.

Employees who believe that they are being harassed or otherwise have been subjected to offensive (e.g., hostile or abusive) conduct may, but are not required to, make their objections known to the offending party. If employees do not want to talk to the offending party, or if the harassment continues even after doing so, employees should also contact their supervisor, manager, a higher level management official, or the Lead of the [Employee and Labor Relations team](#) in the [Office of Human Capital](#) (OHC) (currently [Ari Taragin](#)).

Employees who believe they have been harassed have a duty to report the incident so the Bureau can investigate the allegations and take necessary steps to stop the offensive conduct. Employees should report any harassment before it becomes so severe or pervasive that it violates Federal law. While isolated incidents of harassment generally do not violate federal law, a pattern of such incidents may be unlawful. Similarly, employees who believe they have witnessed harassing conduct also have a duty to report the incident. CFPB will protect the confidentiality of individuals reporting such conduct to the fullest extent possible.

### **Manager/Supervisor Rights and Responsibilities**

Managers and supervisors have a special responsibility to prevent, document, and promptly correct harassing conduct in the workplace. Managers and supervisors receiving reports of alleged harassment or who believe they have potentially or actually witnessed any such behavior must immediately contact the Lead of the [Employee and Labor Relations team](#) in the [Office of Human Capital](#) (OHC) (currently [Ari Taragin](#)).

The Bureau will take appropriate and immediate action in response to complaints about or knowledge of violations, in accordance with the Bureau's [Procedures Related to Harassment and Inappropriate Conduct](#). Management will take appropriate corrective action as needed.

### **Protection Against Retaliation**

The Bureau supports the right of any employee who believes she or he has been discriminated against or harassed (or witnessed discrimination or harassment) to oppose unlawful discrimination or harassment, to file a complaint about it, or to participate in any related inquiry or investigation without fear of retaliation. *Managers and supervisors must not retaliate against an employee for reporting harassment or for cooperating with any harassment investigation. Any retaliatory action will result in appropriate disciplinary action against the manager or supervisor.*

### **Filing an EEO Complaint for Violations of Law**

Employees who believe they have experienced *unlawful* prohibited conduct should promptly contact the [Office of Civil Rights](#) (OCR) to discuss their rights under the EEO laws. ***You must contact OCR to request EEO counseling within 45 calendar days of the occurrence of conduct you believe is unlawful; failure to meet these timeframes could result in the forfeiture of your legal right to redress the harassment.*** (Contact information for OCR is provided below.)

Reporting harassment to OHC does *not* satisfy your obligation to contact OCR within 45 calendar days to seek legal redress for violations of EEO laws. Further, if you contact OCR to report unlawful harassment, OHC may still undertake its own independent internal investigation of the allegations to satisfy its obligations to exercise due care to promptly eliminate all hostile or abusive conduct in the workplace.

### **Additional Information**

You can read our complete EEO and Non-Discrimination Policy [here](#).

You can find the complete *CFPB Procedures Related to Harassment and Inappropriate Conduct* [here](#).

You can read some FAQs about the Office of Civil Rights and its work [here](#).

You can find additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws on:

- the CFPB's intranet at <http://team.cfpb.local/wiki/index.php/EEO>
- the EEOC website at <http://www.eeoc.gov>
- the OSC website at <http://www.osc.gov>

- the Veterans' Employment and Training Service website at <https://www.dol.gov/vets/>
- the MSPB website at <http://www.mspb.gov>
- the FLRA website at <http://www.flra.gov>

### **Contact Information for the CFPB Office of Civil Rights**

#### **U.S. Postal Service Mail:**

Office of Civil Rights  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, D.C. 20552

#### **Hand-Delivery:**

Office of Civil Rights  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Sixth Floor  
Washington, D.C. 20552

#### **Phone:**

202-435-9EEO  
1-855-233-0362  
202-435-9742 (TTY)

#### **E-mail:**

[CFPB\\_EEO@cfpb.gov](mailto:CFPB_EEO@cfpb.gov)

#### **Fax:**

202-435-9598

# Notices on the No FEAR Act and whistleblower protection laws/prohibited personnel practices

1700 G Street NW, Washington, D.C. 20552

**February 2019**

**MEMORANDUM TO: All CFPB Employees, Former Employees, and  
Applicants for Employment at CFPB**

**FROM: Kathleen L. Kraninger  
Director**

**SUBJECT: FY 2019 Annual Notice on the No FEAR Act and  
Whistleblower Protection Laws/Prohibited  
Personnel Practices**

The “[Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002](#),” otherwise known as the “No FEAR Act,” requires Federal agencies like the CFPB to “be accountable for violations of antidiscrimination and whistleblower protection laws.” Pub. L. 107-174, Summary. Congress found in passing the No FEAR Act that “agencies cannot be run effectively if those agencies practice or tolerate discrimination.” Pub. L. 107-74, Title I, General Provisions, § 101(1).

The No FEAR Act also requires Federal agencies, including the Bureau, to provide this notice to Federal employees, former Federal employees, and applicants for Federal employment. This notice is intended to inform you of the rights and protections available to you under Federal antidiscrimination, civil service, whistleblower protection, and anti-retaliation laws.

### **Antidiscrimination Laws**

A federal agency cannot discriminate or tolerate harassment against any employee or applicant for employment on the basis of race, color, religion, sex (including pregnancy, sexual orientation, transgender status, gender identity or expression, gender non-conformity, or sex stereotyping of any kind), national origin, age (40 and above), disability, genetic information, marital status, parental status, political affiliation, military service, union activities, protected equal employment opportunity (EEO) activity, whistleblower activity, or any other non-merit factor. Discrimination and harassment on these bases is prohibited by Federal statutes and Executive Orders. *See 5*

U.S.C. §§ 2302(b); 5 U.S.C. §§ 7101-7135; 29 U.S.C. § 206(d); 29 U.S.C. § 633a; 29 U.S.C. § 791; 38 U.S.C. §§ 4301-35; 42 U.S.C. § 2000e-16; 42 U.S.C. § 2000ff *et seq.*; E.O. 11478; E.O. 13087; E.O. 13145; E.O. 13152; E.O. 13672.

To pursue your rights under these statutes and executive orders, you may need to follow specific rules and meet certain deadlines. For instance:

- If you believe that you have been the victim of unlawful discrimination and wish to pursue a discrimination claim on the basis of race, color, religion, sex (including pregnancy, sexual orientation, transgender status, gender identity or expression, gender non-conformity, or sex stereotyping of any kind), national origin, disability, genetic information, or parental status you may file a formal complaint of discrimination with the CFPB's Office of Civil Rights (OCR). To file a complaint of discrimination with OCR, you first must contact an Equal Employment Opportunity (EEO) counselor in OCR. (See contact information for OCR at the bottom of this notice.)

**You must contact OCR to request EEO counseling *within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action.* Failure to meet these timeframes could result in the forfeiture of your legal right to redress the discrimination. See [29 C.F.R. Part 1614](#).**

- In the alternative, if you are a bargaining unit employee and you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex (including pregnancy, sexual orientation, transgender status, gender identity or expression, gender non-conformity, or sex stereotyping of any kind), national origin, age (40+), disability, or genetic information you may file a grievance through CFPB's [negotiated grievance procedures](#). **You may not file both a timely written grievance under the negotiated grievance procedures and a formal complaint of discrimination with OCR on the same matter. If you file a timely written grievance over an issue but fail to include a related discrimination allegation, you still could be precluded from filing a formal complaint of discrimination with OCR over the same matter.**

For more information, read the [Equal Employment Opportunity Article](#) in the CFPB-NTEU collective bargaining agreement. You may also contact OCR or the [Employee and Labor Relations team](#) in the [Office of Human Capital](#) (OHC).

- If you believe that you have been the victim of unlawful discrimination on the basis of age (40+) in violation of the Age Discrimination in Employment Act of 1967, you may proceed through the administrative EEO process by contacting



OCR to request EEO counseling within 45 calendar days. (This is the same as for an allegation of discrimination based on race, color, religion, sex, national origin, disability, genetic information, or parental status, as noted above.) *Alternatively*, you can choose to file an age-discrimination lawsuit in an appropriate United State district court. If you choose this direct-suit option, you must first give the [Equal Employment Opportunity Commission](#) (EEOC) notice that you intend to sue. You must give the EEOC this notice at least 30 days before you file your lawsuit in court. This notice-of-intent-to-sue may be filed in writing with the EEOC, at P.O. Box 77960, Washington, D.C. 20013. You may also file the notice by facsimile (if the fax is 10 pages or less), at (202) 663-7022. Finally, you may file this notice by personal delivery to the EEOC's Office of Federal Operations/Federal Sector Programs Branch at 131 M Street, NE, Washington, D.C. 20507.

***You must file this notice of intent to sue within 180 calendar days of the alleged discriminatory action. See 29 C.F.R. § 1614.201(a).***

- If you believe that you have been the victim of sex-based pay discrimination in violation of the Equal Pay Act of 1963, you may proceed through the administrative EEO process by contacting OCR to request EEO counseling within 45 calendar days. (This is the same as for an allegation of other bases of discrimination, as noted above.) *Alternatively*, you may file a civil action in a court of competent jurisdiction *within two years (or, if the violation is willful, three years) of the date of the alleged Equal Pay Act violation. Contacting an EEO Counselor in the Bureau's OCR does not suspend or toll the two- or three-year deadline for filing a civil action. See 29 C.F.R. § 1614.408.*

Sex-based pay disparities also may violate Title VII of the Civil Rights Act of 1964, and individuals may challenge sex-based pay discrimination simultaneously under both the Equal Pay Act and Title VII. However, if you wish to allege that a pay disparity violates Title VII, you *must* raise the Title VII allegation in the administrative EEO process by contacting OCR to request EEO counseling within 45 calendar days – even if you also file an Equal Pay Act civil action over the same alleged pay disparity.

- If you are alleging discrimination based on marital status, political affiliation, or any other non-merit factor, you may file a written complaint with the U.S. [Office of Special Counsel](#) (OSC). (See also “Whistleblower Protection Laws/Prohibited Personnel Practices” below.)
- If you are alleging discrimination based on military service, you may request assistance from the [Veterans' Employment and Training Service](#) (VETS) at the

Department of Labor (DOL), the [Merit Systems Protection Board](#) (MSPB), or OSC, depending on the circumstances.

- If you are alleging discrimination based on membership or non-membership in a union, or for union activities, you may request assistance from your union (if applicable) or the [Federal Labor Relations Authority](#) (FLRA).

## **Whistleblower Protection Laws/Prohibited Personnel Practices**

Federal employees have the right to be free from [prohibited personnel practices](#), including retaliation for whistleblowing and exercising certain grievance, complaint, and appeal rights (and other protected activities). The Bureau is committed to making sure that all employees are aware of their rights, as well as the safeguards that are in place to protect them.

The Whistleblower Protection Act of 1989, the Whistleblower Protection Enhancement Act of 2012, the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, and other laws collectively provide rights for all covered federal employees to make whistleblower disclosures and ensure that employees are protected from whistleblower retaliation. A Federal employee with authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because that individual has engaged in whistleblowing.

For these purposes, [whistleblowing](#) is defined as the disclosure of information that an employee or applicant reasonably believes evidences (1) a violation of any law, rule, or regulation; (2) gross mismanagement; (3) a gross waste of funds; (4) an abuse of authority; (5) a substantial and specific danger to public health or safety; or (6) censorship related to scientific research or analysis, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. § 2302(b)(8). Employees may make lawful disclosures to anyone, including, for example, management officials, the Inspector General of an agency, and/or the [U.S. Office of Special Counsel](#) (OSC). This notice includes links below to information about OSC, which is an independent agency that protects federal employees from prohibited personnel practices, including whistleblower retaliation and unlawful hiring practices. OSC also provides an independent, secure channel for disclosing and resolving wrongdoing in federal agencies. [Information on the prohibition on retaliation for whistleblowing is available from this OSC fact sheet.](#)

Under 5 U.S.C. § 2302(b)(9), agency officials also are prohibited from retaliating against any covered employee because the employee (1) filed a lawful complaint, grievance or

appeal; (2) testified for or helped someone else with one of these activities; (3) cooperated with or disclosed information to the Special Counsel or an Inspector General; or (4) refused to obey an order that would require the employee to violate a law, rule, or regulation. This [fact sheet from OSC](#) provides information on this type of retaliation.

Please also review the fact sheet, “[Your Rights as a Federal Employee](#),” which provides detailed information on the fourteen prohibited personnel practices and employees’ rights to file complaints with OSC. You can also learn more about federal civil service merit systems principles and prohibited personnel practices in this [brief guide from the Merit Systems Protection Board](#), and this [fact sheet on prohibited personnel practices](#) from OSC.

Additionally, you are encouraged to review these other materials: “[Know Your Rights When Reporting Wrongs](#)” and “[The Role of the U.S. Office of Special Counsel](#),” which describe different avenues for making whistleblower disclosures and OSC’s role in accepting complaints from federal employees.

If you believe that you have been the victim of whistleblower or other retaliation under 5 U.S.C. §§ 2302(b)(8) or (b)(9), you may file a written complaint ([Form OSC-11](#)) with OSC at 1730 M Street NW., Suite 218, Washington, D.C. 20036-4505, or [online](#) through the OSC website.

### **Retaliation for Engaging in Protected EEO-Related Activity**

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination (or whistleblower protections) laws listed and as discussed above. If you believe that you are the victim of retaliation for engaging in protected activity and wish to pursue a legal remedy, you must follow, as appropriate, the procedures and timeframes described in the sections of this notice above entitled “Antidiscrimination Laws” and “Whistleblower Protection Laws/Prohibited Personnel Practices” – or, if applicable, relevant negotiated grievance procedures.

Read this [brief guide from the EEOC](#) on some of the causes of, and manager tips for avoiding, [EEO-related retaliation](#).

### **Disciplinary Actions**

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal from federal service. If OSC has initiated an investigation under 5 U.S.C. § 1214, however, according to 5 U.S.C. § 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in

prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

However, under the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, an agency *must* propose certain disciplinary actions against supervisors who have engaged in certain specified acts of whistleblower retaliation or other forms of retaliation and prohibited personnel practices under civil service laws. For more information on these mandatory discipline requirements, contact OCR or the Bureau's Legal Division.

### **Additional Information**

For further information regarding the No FEAR Act rules, see [5 C.F.R. Part 724](#) or contact the Bureau's [Office of Civil Rights](#). (See complete contact information for OCR at the bottom of this notice.) You can find additional information about the No FEAR Act on the CFPB's intranet at [http://team.cfpb.local/wiki/index.php/No\\_FEAR\\_Act\\_Notice](http://team.cfpb.local/wiki/index.php/No_FEAR_Act_Notice). The CFPB's No FEAR Act statistics can be found on the Bureau's external website at <http://www.consumerfinance.gov/no-fear-act/>.

You can find additional information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws on the CFPB's intranet at <http://team.cfpb.local/wiki/index.php/EEO>, on the EEOC website at <http://www.eeoc.gov>, on the OSC website at <http://www.osc.gov>, on the MSPB website at <http://www.mspb.gov>, on the VETS website at <https://www.dol.gov/vets/>, or on the FLRA website at <http://www.flra.gov>.

### **Existing Rights Unchanged**

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands, or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. § 2302(d).

### **Contact Information for the CFPB Office of Civil Rights**

#### **U.S. Postal Service Mail:**

Office of Civil Rights  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, D.C. 20552

**Hand-Delivery:**

Office of Civil Rights  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Sixth Floor  
Washington, D.C. 20552

**Phone:**

202-435-9EEO  
1-855-233-0362  
202-435-9742 (TTY)

**E-mail:**

[CFPB\\_EEO@cfpb.gov](mailto:CFPB_EEO@cfpb.gov)

**Fax:**

202-435-9598

**February 2018**

**MEMORANDUM TO: All CFPB Employees, Former Employees, and Applicants for Employment at CFPB**

**FROM: Mick Mulvaney  
Acting Director**

**SUBJECT: FY 2018 Annual Notice on the No FEAR Act and Whistleblower Protection Laws/Prohibited Personnel Practices**

The “[Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002](#),” otherwise known as the “No FEAR Act,” requires Federal agencies like the CFPB to “be accountable for violations of antidiscrimination and whistleblower protection laws.” Pub. L. 107-174, Summary. Congress found in passing the No FEAR Act that “agencies cannot be run effectively if those agencies practice or tolerate discrimination.” Pub. L. 107-74, Title I, General Provisions, § 101(1).

The No FEAR Act also requires Federal agencies, including the Bureau, to provide this notice to Federal employees, former Federal employees, and applicants for Federal employment. This notice is intended to inform you of the rights and protections available to you under Federal antidiscrimination, civil service, whistleblower protection, and antiretaliation laws.

### **Antidiscrimination Laws**

A federal agency cannot discriminate or tolerate harassment against any employee or applicant for employment on the basis of race, color, religion, sex (including pregnancy, sexual orientation, transgender status, gender identity or expression, gender non-conformity, or sex stereotyping of any kind), national origin, age (40 and above), disability, genetic information, marital status, parental status, political affiliation, military service, union activities, protected equal employment opportunity (EEO) activity, whistleblower activity, or any other non-merit factor. Discrimination and harassment on these bases is prohibited by Federal statutes and Executive Orders. See 5 U.S.C. §§ 2302(b); 5 U.S.C. §§ 7101-7135; 29 U.S.C. § 206(d); 29 U.S.C. § 633a; 29 U.S.C. § 791; 38 U.S.C. §§ 4301-35; 42 U.S.C. § 2000e-16; 42 U.S.C. § 2000ff *et seq.*; E.O. 11478; E.O. 13087; E.O. 13145; E.O. 13152; E.O. 13672.

To pursue your rights under these statutes and executive orders, you may need to follow specific rules and meet certain deadlines. For instance:

- If you believe that you have been the victim of unlawful discrimination and wish to pursue a discrimination claim on the basis of race, color, religion, sex (including pregnancy, sexual orientation, transgender status, gender identity or expression, gender non-conformity, or sex stereotyping of any kind), national origin, disability, genetic information, or parental status you may file a formal complaint of discrimination with the CFPB's Office of Civil Rights (OCR). To file a complaint of discrimination with OCR, you first must contact an Equal Employment Opportunity (EEO) counselor in OCR. (See contact information for OCR at the bottom of this notice.)

**You must contact OCR to request EEO counseling *within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action.* Failure to meet these timeframes could result in the forfeiture of your legal right to redress the discrimination. See [29 C.F.R. Part 1614](#).**

- In the alternative, if you are a bargaining unit employee and you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex (including pregnancy, sexual orientation, transgender status, gender identity or expression, gender non-conformity, or sex stereotyping of any kind), national origin, age (40+), disability, or genetic information you may file a grievance through CFPB's [negotiated grievance procedures](#). ***You may not file both a timely written grievance under the negotiated grievance procedures and a formal complaint of discrimination with OCR on the same matter. If you file a timely written grievance over an issue but fail to include a related discrimination allegation, you still could be precluded from filing a formal complaint of discrimination with OCR over the same matter.***

For more information, read the [Equal Employment Opportunity Article](#) in the CFPB-NTEU collective bargaining agreement. You may also contact OCR or the [Employee and Labor Relations team](#) in the [Office of Human Capital](#) (OHC).

- If you believe that you have been the victim of unlawful discrimination on the basis of age (40+) in violation of the Age Discrimination in Employment Act of 1967, you may proceed through the administrative EEO process by contacting OCR to request EEO counseling within 45 calendar days. (This is the same as for an allegation of discrimination based on race, color, religion, sex, national origin, disability, genetic information, or parental status, as noted above.) *Alternatively*, you can choose to file an age-discrimination lawsuit in an appropriate United State district court. If you choose this direct-



suit option, you must first give the [Equal Employment Opportunity Commission](#) (EEOC) notice that you intend to sue. You must give the EEOC this notice at least 30 days before you file your lawsuit in court. This notice-of-intent-to-sue may be filed in writing with the EEOC, at P.O. Box 77960, Washington, D.C. 20013. You may also file the notice by facsimile (if the fax is 10 pages or less), at (202) 663-7022. Finally, you may file this notice by personal delivery to the EEOC's Office of Federal Operations/Federal Sector Programs Branch at 131 M Street, NE, Washington, D.C. 20507.

***You must file this notice of intent to sue within 180 calendar days of the alleged discriminatory action. See 29 C.F.R. § 1614.201(a).***

- If you believe that you have been the victim of sex-based pay discrimination in violation of the Equal Pay Act of 1963, you may proceed through the administrative EEO process by contacting OCR to request EEO counseling within 45 calendar days. (This is the same as for an allegation of other bases of discrimination, as noted above.) *Alternatively*, you may file a civil action in a court of competent jurisdiction *within two years (or, if the violation is willful, three years) of the date of the alleged Equal Pay Act violation*. Contacting an EEO Counselor in the Bureau's OCR does *not* suspend or toll the two- or three-year deadline for filing a civil action. See 29 C.F.R. § 1614.408.

Sex-based pay disparities also may violate Title VII of the Civil Rights Act of 1964, and individuals may challenge sex-based pay discrimination simultaneously under both the Equal Pay Act and Title VII. However, if you wish to allege that a pay disparity violates Title VII, you *must* raise the Title VII allegation in the administrative EEO process by contacting OCR to request EEO counseling within 45 calendar days – even if you also file an Equal Pay Act civil action over the same alleged pay disparity.

- If you are alleging discrimination based on marital status, political affiliation, or any other non-merit factor, you may file a written complaint with the U.S. [Office of Special Counsel](#) (OSC). (See also “Whistleblower Protection Laws/Prohibited Personnel Practices” below.)
- If you are alleging discrimination based on military service, you may request assistance from the [Veterans' Employment and Training Service](#) (VETS) at the Department of Labor (DOL), the [Merit Systems Protection Board](#) (MSPB), or OSC, depending on the circumstances.
- If you are alleging discrimination based on membership or non-membership in a union, or for union activities, you may request assistance from your union (if applicable) or the [Federal Labor Relations Authority](#) (FLRA).



## **Whistleblower Protection Laws/Prohibited Personnel Practices**

Federal employees have the right to be free from [prohibited personnel practices](#), including retaliation for whistleblowing and exercising certain grievance, complaint, and appeal rights (and other protected activities). The Bureau is committed to making sure that all employees are aware of their rights, as well as the safeguards that are in place to protect them.

The Whistleblower Protection Act of 1989, the Whistleblower Protection Enhancement Act of 2012, and the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017 collectively provide rights for all covered federal employees to make whistleblower disclosures and ensure that employees are protected from whistleblower retaliation. A Federal employee with authority to take, direct others to take, recommend, or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because that individual has engaged in whistleblowing.

For these purposes, [whistleblowing](#) is defined as the disclosure of information that an employee or applicant reasonably believes evidences (1) a violation of any law, rule, or regulation; (2) gross mismanagement; (3) a gross waste of funds; (4) an abuse of authority; (5) a substantial and specific danger to public health or safety; or (6) censorship related to scientific research or analysis, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. § 2302(b)(8). Employees may make lawful disclosures to anyone, including, for example, management officials, the Inspector General of an agency, and/or the [U.S. Office of Special Counsel](#) (OSC). This notice includes links below to information about OSC, which is an independent agency that protects federal employees from prohibited personnel practices, including whistleblower retaliation and unlawful hiring practices. OSC also provides an independent, secure channel for disclosing and resolving wrongdoing in federal agencies. This [fact sheet](#) from OSC provides information on the prohibition on retaliation for whistleblowing.

Under 5 U.S.C. § 2302(b)(9), agency officials also are prohibited from retaliating against any covered employee because the employee (1) filed a lawful complaint, grievance or appeal; (2) testified for or helped someone else with one of these activities; (3) cooperated with or disclosed information to the Special Counsel or an Inspector General; or (4) refused to obey an order that would require the employee to violate a law, rule, or regulation. This [fact sheet](#) from OSC provides information on this type of retaliation.

Please also review the fact sheet, "[Your Rights as a Federal Employee](#)," which provides detailed information on the fourteen prohibited personnel practices and employees' rights to file complaints with OSC. You can also learn more about federal

civil service merit systems principles and prohibited personnel practices in this [brief guide](#) from the Merit Systems Protection Board, and this [fact sheet](#) from OSC.

Additionally, you are encouraged to review these other materials: “[Know Your Rights When Reporting Wrongs](#)” and “[The Role of the U.S. Office of Special Counsel](#),” which describe different avenues for making whistleblower disclosures and OSC’s role in accepting complaints from federal employees.

If you believe that you have been the victim of whistleblower or other retaliation under 5 U.S.C. §§ 2302(b)(8) or (b)(9), you may file a written complaint ([Form OSC-11](#)) with OSC at 1730 M Street NW., Suite 218, Washington, D.C. 20036-4505, or [online](#) through the OSC website.

### **Retaliation for Engaging in Protected EEO-Related Activity**

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination (or whistleblower protections laws listed and as discussed above). If you believe that you are the victim of retaliation for engaging in protected activity and wish to pursue a legal remedy, you must follow, as appropriate, the procedures and timeframes described in the sections of this notice above entitled “Antidiscrimination Laws” and “Whistleblower Protection Laws/Prohibited Personnel Practices” – or, if applicable, relevant negotiated grievance procedures.

Read this [brief guide](#) from the EEOC on some of the causes of, and manager tips for avoiding, [EEO-related retaliation](#).

### **Disciplinary Actions**

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal from federal service. If OSC has initiated an investigation under 5 U.S.C. § 1214, however, according to 5 U.S.C. § 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

However, under the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, an agency *must* propose certain disciplinary actions against supervisors who have engaged in certain specified acts of whistleblower retaliation or other forms of retaliation and prohibited personnel practices under civil service laws. For more information on these mandatory discipline requirements, contact OCR or the Bureau’s Legal Division.

## **Additional Information**

For further information regarding the No FEAR Act rules, see [5 C.F.R. Part 724](#) or contact the Bureau's [Office of Civil Rights](#). (See complete contact information for OCR at the bottom of this notice.) You can find additional information about the No FEAR Act on the CFPB's intranet at [http://team.cfpb.local/wiki/index.php/No\\_FEAR\\_Act\\_Notice](http://team.cfpb.local/wiki/index.php/No_FEAR_Act_Notice). The CFPB's No FEAR Act statistics can be found on the Bureau's external website at <http://www.consumerfinance.gov/no-fear-act/>.

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### **U.S. Postal Service Mail:**

Office of Civil Rights  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, D.C. 20552

### **Hand-Delivery:**

Office of Civil Rights  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Sixth Floor  
Washington, D.C. 20552

### **Phone:**

202-435-9EEO  
1-855-233-0362

202-435-9742 (TTY)

**E-mail:**

[CFPB\\_EEO@cfpb.gov](mailto:CFPB_EEO@cfpb.gov)

**Fax:**

202-435-9598

## APPENDIX C:

# Summary of complaint data

Equal Employment Opportunity Data Posted Pursuant to Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Pub. L. 107-174, for the Consumer Financial Protection Bureau (CFPB).

For the period ending September 30, 2018.

- Mixed-case complaints are included in this report.
- Calculations begin day after triggering event but include the last day of event per 29 C.F.R. § 1614.604.

# 1. Complaint activity

TABLE 6: COMPLAINT ACTIVITY

Complaint Activity	2013	2014	2015	2016	2017	2018
Number of complaints filed	9	25	22	19*	5	21**
Number of complainants	9	24	19	18	5	19
Repeat filers <sup>73</sup>	0	1	3	1	0	2

\* Three of these complaints were putative class complaints filed in a previous fiscal year. In FY 2016, an EEOC Administrative Judge (AJ) denied class certification in all three matters, requiring the matters to be processed currently as individual complaints. *See* 29 C.F.R. § 1614.204(d)(7). Total new formal complaints filed in FY 2016 thus equal 16.

\*\* One of these complaints alleged a violation of Executive Order 11478 only. The Bureau is processing this complaint pursuant to a policy the Agency has established to address such allegations. Thus, in FY 2018 CFPB received 20 new formal complaints filed (in whole or in part) under 29 C.F.R. Part 1614.

## 1.1 Complaints by basis

TABLE 7: COMPLAINTS BY BASIS\*

Complaints by Basis	2013	2014	2015	2016	2017	2018
Race	4	17	14	8	2	13

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<sup>73</sup> For this purpose, “repeat filers” include only individuals who have filed more than one complaint during the relevant fiscal year. This data does not include individuals who may have filed more than one formal complaint but who have never filed more than one complaint in any single fiscal year.

Complaints by Basis	2013	2014	2015	2016	2017	2018
Color	0	5	10	6	1	5
Religion	2	1	2	0	0	2
Reprisal	4	16	16	13	3	12
Sex	4	10	13	10	2	11
Pregnancy (PDA)	0	0	0	2	0	0
National Origin	1	8	5	2	1	0
Equal Pay (EPA)	1	0	2	5	0	0
Age	4	9	7	4	4	5
Disability	2	3	10	4	0	5
Genetic Information	0	0	0	0	0	0
Non-EEO	1	2	0	2	1	2

\* Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.

## 1.2 Complaints by issue

**TABLE 8:** COMPLAINTS BY ISSUE

Complaints by Issue	2013	2014	2015	2016	2017	2018
Appointment/Hire	2	3	1	1	2	0
Assignment of Duties	3	8	5	6	1	8
Awards	0	0	0	0	0	2
Conversion to Full Time/Permanent Status	0	0	3	2	0	0
Duty Hours	0	1	0	0	0	3
Performance Evaluation/Appraisal	2	13	7	7	0	2
Examination/Test	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0
Pay (Including Overtime)	1	4	5	7	0	4
Promotion/Non-Selection	0	10	6	11	2	3
Reasonable Accommodation – Disability	0	0	2	3	0	1
Reinstatement	0	0	0	0	0	0
Reasonable Accommodation – Religion	0	0	0	0	0	0
Retirement	0	0	0	0	0	0
Sex Stereotyping	0	0	0	0	0	0
Telework	0	0	0	0	0	0
Termination	1	2	0	1	0	0
Terms/Conditions of Employment	2	3	13	8	1	7
Time and Attendance	1	4	2	3	0	2
Training	0	6	8	3	0	2



Complaints by Issue	2013	2014	2015	2016	2017	2018
Other	0	2	1	0	0	0

**TABLE 9:** COMPLAINTS INVOLVING DISCIPLINARY ACTION

Type of Disciplinary Action	2013	2014	2015	2016	2017	2018
Demotion	1	0	0	1	0	0
Reprimand	0	9	2	1	1	0
Suspension	0	0	0	0	0	0
Removal	1	1	0	0	0	1
Other	1	0	0	0	0	0

**TABLE 10:** COMPLAINTS INVOLVING HARASSMENT

Type of Harassment	2013	2014	2015	2016	2017	2018
Non-Sexual	2	15	9	4	0	12
Sexual	0	0	1	0	0	2

**TABLE 11:** COMPLAINTS INVOLVING REASSIGNMENT

Type of Reassignment	2013	2014	2015	2016	2017	2018
Denied	0	1	1	0	0	0
Directed	0	1	1	1	0	3

## 2. Complaint processing times

**TABLE 12:** PROCESSING TIMES FOR COMPLAINTS PENDING (FOR ANY LENGTH OF TIME) DURING FISCAL YEAR

Type of Processing Time	2013	2014	2015	2016	2017	2018
Average number of days in investigation	176.00	230.00	247.00	270.05	238.20	142.86
Average number of days in final action	26.00	17.00	119.00	91.83	60.50	158.67*

\* This processing time resulted in part from the Bureau's Office of Civil Rights (OCR) holding one matter in abeyance while the parties engaged in settlement negotiations. The matter was not resolved, and the Bureau ultimately issued the FAD in FY 2018.

**TABLE 13:** PROCESSING TIMES FOR COMPLAINTS PENDING (FOR ANY LENGTH OF TIME) DURING FISCAL YEAR WHERE HEARING WAS REQUESTED

Type of Processing time	2013	2014	2015	2016	2017	2018
Average number of days in investigation	288.00	278.00	183.00	242.83	240.83	190.33
Average number of days in final action	131.00	178.00	219.00	0.00	35.67	35.00

**TABLE 14:** COMPLAINTS PENDING (FOR ANY LENGTH OF TIME) DURING FISCAL YEAR WHERE HEARING WAS NOT REQUESTED

Type of Processing Time	2013	2014	2015	2016	2017	2018
Average number of days in investigation	176.00	214.00	293.00	316.71	243.33	107.25
Average number of days in final action	58.00	90.00	52.00	91.83	85.33	220.50*

\* This processing time resulted in part from the Bureau's Office of Civil Rights (OCR) holding one matter in abeyance while the parties engaged in settlement negotiations. The matter was not resolved, and the Bureau ultimately issued the FAD in FY 2018.

### 3. Complaint dismissals and withdrawals

TABLE 15: COMPLAINTS DISMISSED BY AGENCY

Agency Dismissal Information	2013	2014	2015	2016	2017	2018
Total complaints dismissed by agency	1	2	2	1	1	4
Average days pending prior to dismissal	27.00	293.00	26.00	34.00	21.00	13.00

TABLE 16: COMPLAINTS WITHDRAWN BY COMPLAINANTS

Complaints Withdrawn	2013	2014	2015	2016	2017	2018
Total complaints withdrawn by complainants	1	0	1	2	3	0

## 4. Findings of discrimination

**TABLE 17:** TOTAL FINAL AGENCY ACTIONS FINDING DISCRIMINATION

Type of Findings	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
Total findings	0	0	0	0	0	0	1	100	0	0	1	100
Without hearing	0	0	0	0	0	0	1	100	0	0	1	100
With hearing	0	0	0	0	0	0	0	0	0	0	0	0

### 4.1 Findings by basis\*

**TABLE 18:** TOTAL FINDINGS OF DISCRIMINATION RENDERED BY BASIS

Basis	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
Total findings	0	0	0	0	0	0	1	100	0	0	1	100
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	1	100	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
Pregnancy (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 (EPA)	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	1	100	0	0	1	100

Basis	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
Genetic Information	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

**TABLE 19:** FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY BASIS

Basis	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
Total findings	0	0	0	0	0	0	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
Pregnancy (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 (EPA)	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
Genetic Information	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

**TABLE 20:** FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY BASIS

Basis	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
Total findings	0	0	0	0	0	0	1	100	0	0	1	100
Race	0	0	0	0	0	0	0	0	0	0	0	0

<b>Basis</b>	<b>2013 #</b>	<b>2013 %</b>	<b>2014 #</b>	<b>2014 %</b>	<b>2015 #</b>	<b>2015 %</b>	<b>2016 #</b>	<b>2016 %</b>	<b>2017 #</b>	<b>2017 %</b>	<b>2018 #</b>	<b>2018 %</b>
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	1	100	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
Pregnancy (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 (EPA)	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	1	100	0	0	1	100
Genetic Information	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

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

## 4.2 Findings by issue

**TABLE 21:** TOTAL FINDINGS OF DISCRIMINATION RENDERED BY ISSUE

<b>Issue</b>	<b>2013 #</b>	<b>2013 %</b>	<b>2014 #</b>	<b>2014 %</b>	<b>2015 #</b>	<b>2015 %</b>	<b>2016 #</b>	<b>2016 %</b>	<b>2017 #</b>	<b>2017 %</b>	<b>2018 #</b>	<b>2018 %</b>
Total findings	0	0	0	0	0	0	1	100	0	0	1	100
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	1	100	0	0	0	0
Awards	0	0	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	0	0

<b>Issue</b>	<b>2013 #</b>	<b>2013 %</b>	<b>2014 #</b>	<b>2014 %</b>	<b>2015 #</b>	<b>2015 %</b>	<b>2016 #</b>	<b>2016 %</b>	<b>2017 #</b>	<b>2017 %</b>	<b>2018 #</b>	<b>2018 %</b>
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/Appraisal	0	0	0	0	0	0	1	100	0	0	0	0
Examination/Test	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
Reasonable Accommodation – Disability	0	0	0	0	0	0	1	100	0	0	1	100
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Religion	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	0	0	0	0	0	0	0	0	0	0	0	0

**TABLE 22:** FINDINGS OF DISCRIMINATION RENDERED BY ISSUE – DISCIPLINARY ACTION

<b>Type of Disciplinary Action</b>	<b>2013 #</b>	<b>2013 %</b>	<b>2014 #</b>	<b>2014 %</b>	<b>2015 #</b>	<b>2015 %</b>	<b>2016 #</b>	<b>2016 %</b>	<b>2017 #</b>	<b>2017 %</b>	<b>2018 #</b>	<b>2018 %</b>
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

Type of Disciplinary Action	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
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

**TABLE 23:** FINDINGS OF DISCRIMINATION RENDERED BY ISSUE – HARRASSMENT

Type of Harassment	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
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

**TABLE 24:** FINDINGS OF DISCRIMINATION RENDERED BY ISSUE – REASSIGNMENT

Type of Reassignment	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
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

**TABLE 25:** FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE

Issue	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
Total findings after hearing	0	0	0	0	0	0	0	0	0	0	0	0
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Permanent Status	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
Performance Evaluation/Appraisal	0	0	0	0	0	0	0	0	0	0	0	0



<b>Issue</b>	<b>2013 #</b>	<b>2013 %</b>	<b>2014 #</b>	<b>2014 %</b>	<b>2015 #</b>	<b>2015 %</b>	<b>2016 #</b>	<b>2016 %</b>	<b>2017 #</b>	<b>2017 %</b>	<b>2018 #</b>	<b>2018 %</b>
Examination/Test	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
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
Reasonable Accommodation – Religion	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	0	0	0	0	0	0	0	0	0	0	0	0

**TABLE 26:** FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE – DISCIPLINARY ACTION

<b>Type of Disciplinary Action</b>	<b>2013 #</b>	<b>2013 %</b>	<b>2014 #</b>	<b>2014 %</b>	<b>2015 #</b>	<b>2015 %</b>	<b>2016 #</b>	<b>2016 %</b>	<b>2017 #</b>	<b>2017 %</b>	<b>2018 #</b>	<b>2018 %</b>
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

Type of Disciplinary Action	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
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

**TABLE 27:** FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE – HARASSMENT

Type of Harassment	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
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

**TABLE 28:** FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE – REASSIGNMENT

Type of Reassignment	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
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

**TABLE 29:** FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY ISSUE

Type of Issue	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
Total findings without hearing	0	0	0	0	0	0	1	100	0	0	1	100
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	1	100	0	0	0	0
Awards	0	0	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	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/Appraisal	0	0	0	0	0	0	1	100	0	0	0	0

Type of Issue	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
Examination/Test	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
Reasonable Accommodation – Disability	0	0	0	0	0	0	1	100	0	0	1	100
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Religion	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	0	0	0	0	0	0	0	0	0	0	0	0

**TABLE 30:** FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY ISSUE – DISCIPLINARY ACTION

Type of Discipline	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
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

Type of Discipline	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
Other	0	0	0	0	0	0	0	0	0	0	0	0

**TABLE 31:** FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY ISSUE – HARASSMENT

Type of Harassment	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
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

**TABLE 32:** FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY ISSUE – REASSIGNMENT

Type of Reassignment	2013 #	2013 %	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %
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

## 5. Pending complaints

**TABLE 33:** PENDING COMPLAINTS FILED IN PREVIOUS FISCAL YEARS BY STATUS

<b>Pending Complaints and Complainants</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Total complaints from previous fiscal years	3	20	32	21	16	17
Total complainants	3	20	25	17	12	15

**TABLE 34:** PENDING COMPLAINTS BY STATUS

<b>Where in EEO Process Complaints Are Pending</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Investigation	2	19	8	0	0	0
ROI issued, pending complainant's action	1	1	2	0	0	0
Hearing	0	0	12	18	12	14
Final Agency Action	0	0	6	2	1	0
Appeal with EEOC Office of Federal Operations	0	0	4	6	9	3

## 6. Investigation timeframes

**TABLE 35:** INVESTIGATIONS THAT EXCEED TIME FRAMES

Investigations	2013	2014	2015	2016	2017	2018
Pending complaints where investigations exceed required time frames	0	0	2	0	0	0