

# No FEAR Act Report for fiscal year (FY) 2020

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



# Message from the Acting Director

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) 2020 for the Consumer Financial Protection Bureau (CFPB or Bureau). This report, along with the Bureau's FY 2020 Equal Employment Opportunity (EEO) Status Report, summarizes accomplishments in the Bureau's EEO program.



As the Acting Director, my two main priorities for the Bureau are to focus on what we can do for consumers during the COVID-19 pandemic and to focus on what we can do to address racial injustice and economic inequality in the consumer finance industry. The COVID-19 pandemic has not impacted all communities equally, and in particular, Black, Brown, and Native American communities have borne a disproportionate share of the impacts of the virus. Bureau employees come from a variety of backgrounds and experiences and I recognize that Bureau employees are not immune to the impacts of COVID-19.

I strongly believe in using the Bureau's tools to address and influence racial equity issues impacting American consumers. Similarly, I whole-heartedly believe it is important that the Bureau has a fair, equitable and discrimination free workplace, which I am committed to fostering. I want our staff to represent the diverse lived experiences of all Americans, and I want our staff to be educated on racial equity issues so they can best serve all communities within the American public. The annual No FEAR Act report data shows that allegations on the basis of race and sex in formal EEO complaints filed with the Bureau's Office of Civil Rights (OCR) have experienced a two-year downward trajectory. While the number of formal EEO complaints are similar to FY 2019, the Bureau's EEO complaints program had fewer pending formal complaints at the end of each fiscal year, dating back to 2015. The Bureau's OCR has been applauded by the U.S. Equal Employment Opportunity Commission for creating a model EEO Program for the Bureau.

During my tenure as CFPB's Acting Director, I plan to lead by example on my commitment to the principles and values of EEO, equity, fairness, diversity, and inclusion. These tenants are critical in the work we do for consumers.

Sincerely,

A handwritten signature in blue ink that reads "David K. Uejio". The signature is written in a cursive, flowing style.

David Uejio

# Table of Contents

<b>Message from Dave Uejio .....</b>	<b>1</b>
<b>Table of Contents.....</b>	<b>3</b>
<b>1. Purpose of report.....</b>	<b>5</b>
<b>2. Background.....</b>	<b>7</b>
2.1 Mission and Structure of CFPB.....	7
2.2 CFPB's EEO program.....	9
<b>3. Data and Analysis.....</b>	<b>16</b>
3.1 EEO complaint activity in federal court and status/disposition.....	16
3.2 Judgment fund reimbursements and budget adjustments.....	18
3.3 Discipline-related policies and number of employees disciplined .....	18
3.4 Analysis of complaints.....	24
3.5 No FEAR Act training.....	40
<b>Appendix A: .....</b>	<b>43</b>
Legislative and regulatory language .....	43
<b>Appendix B: .....</b>	<b>47</b>
FY 2020 EEO and anti-harassment policy statement.....	47
<b>FY 2020 Notice on the No FEAR Act and whistleblower     protection laws/prohibited personnel practices.....</b>	<b>53</b>
<b>Appendix C:.....</b>	<b>61</b>
Summary of complaint data.....	61

<b>1. Complaint activity.....</b>	<b>62</b>
1.1 Complaints by basis.....	63
1.2 Complaints by issue.....	64
<b>2. Complaint processing times .....</b>	<b>66</b>
<b>3. Complaint dismissals and withdrawals.....</b>	<b>67</b>
<b>4. Findings of discrimination.....</b>	<b>68</b>
4.1 Findings by basis*.....	68
4.2 Findings by issue.....	70
<b>5. Pending complaints.....</b>	<b>77</b>
<b>6. Investigation timeframes .....</b>	<b>78</b>

# 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:

- The number of federal court cases, pending or resolved, arising under the No FEAR Act laws and the status and disposition of the cases;

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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).

- 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 or Bureau) 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 Bureau'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 Mission and Structure of CFPB

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 to ensure 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>

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

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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)).



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 an Office of Equal Opportunity & Fairness – and five Divisions:

- Consumer Education & External Affairs (CEEA)
- Supervision, Enforcement, & Fair Lending (SEFL)
- Research, Markets, & Regulations (RMR)
- 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. A current Bureau organizational chart is available on the Bureau's public website at <https://www.consumerfinance.gov/about-us/the-bureau/bureau-structure>.

As of the end of FY 2020, the Bureau consisted of 1503 federal 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's EEO program

CFPB has an Office of Equal Opportunity & Fairness (OEOF), which is housed in the Office of the Director. The head of OEOF is an Associate Director who reports directly to the head of the Bureau.

OEOF is comprised of four discrete program components:

- The Office of Civil Rights (OCR) carries out functions required by Title VII of the Civil Rights Act of 1964 (and related EEO laws), and the EEOC's federal-sector regulations at 29 C.F.R. Part 1614 (Part 1614),<sup>13</sup> as well as EEOC Management Directives 110 (MD-110) and 715 (MD-715).<sup>14</sup> OCR, the Bureau's Equal Employment Opportunity (EEO) office, has operated since February 2013<sup>15</sup>.
- The Office of Minority and Women Inclusion (OMWI), required under the Dodd-Frank Act, promotes diversity and inclusion at the Bureau and advances diversity and inclusion among the Bureau's contractors and regulated entities;<sup>16</sup>
- The Disability and Accessibility Program (DAP) coordinates the Bureau's responsibilities under the Rehabilitation Act of 1973; and

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<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.

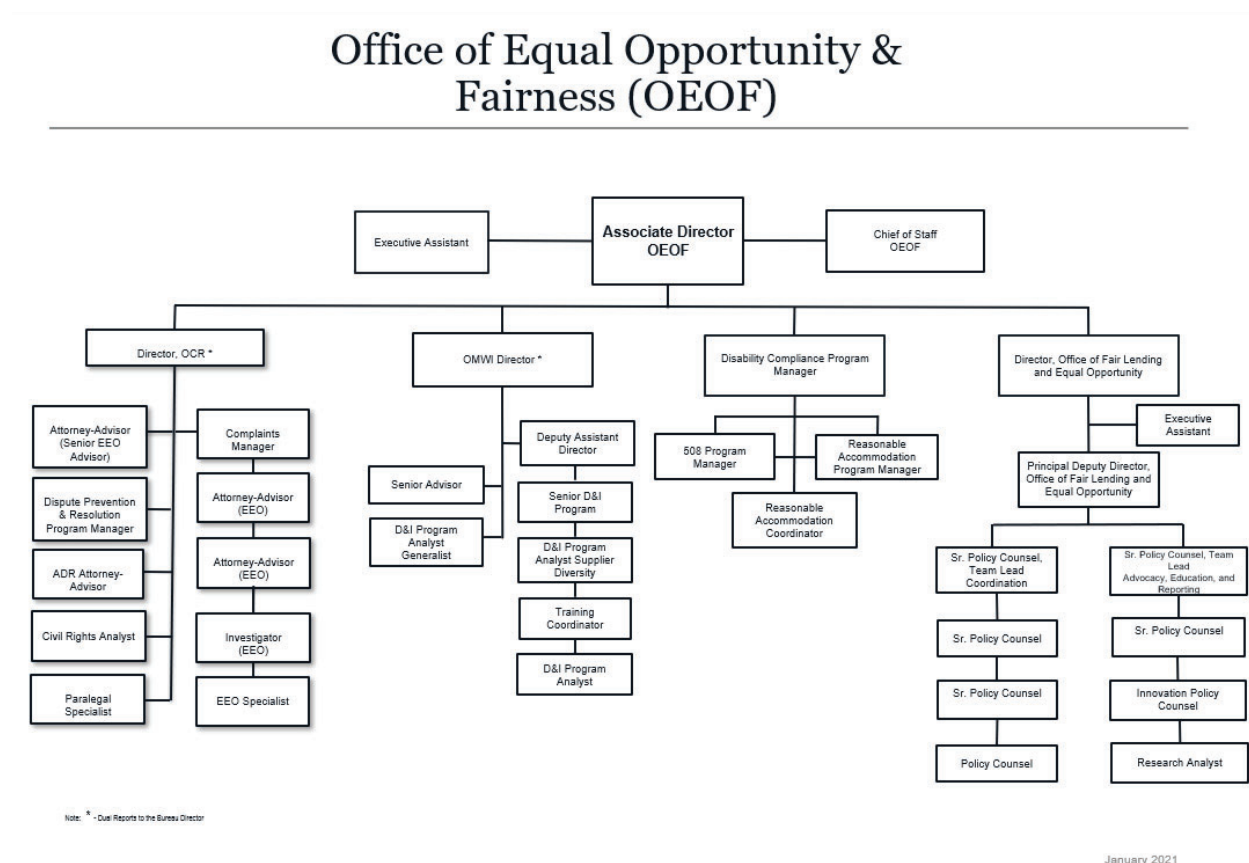
<sup>14</sup> See EEOC Management Directive 110 for 29 C.F.R. Part 1614 (Aug. 5, 2015), available at <https://www.eeoc.gov/federal/directives/md110.cfm>; see also EEOC Management Directive 715 (Oct. 1, 2003), available at <https://www.eeoc.gov/federal/directives/md715.cfm>; Instructions to Federal Agencies 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, these management directives are 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).

<sup>15</sup> Prior to this, the Department of Treasury processed EEO complaints while the Bureau was being stood up.

<sup>16</sup> See 12 U.S.C. §§ 5452(a)(1)(B), (b)(2)(A).

- The Office of Fair Lending and Equal Opportunity (OFLEO), required under the Bureau’s organic statute within Dodd-Frank Act,<sup>17</sup> leads the Bureau’s effort to ensure fair, equitable, nondiscriminatory access to credit for both individuals and communities.

**FIGURE 1:** OEOF ORGANIZATIONAL CHART



<sup>17</sup> See 12 U.S.C. § 5493(c)(2)(A).

OCR, as the Bureau’s EEO office, safeguards employment-related civil rights throughout the Bureau. 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.

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

<b>CFPB’s Office of Civil Rights (OCR)</b>	
Mission	To support the Bureau in complying with civil rights laws and in applying best practices to achieve equal opportunity in the workplace.
Vision	The Bureau as a model, fair, and discrimination-free workplace – with an engaged and empowered workforce energized to carry out Bureau leadership’s priorities.
How OCR works	With independence, integrity, competence, collaboration, and a commitment to quality and excellence.

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 through 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 a neutral and fair forum, separate from the Bureau’s Legal Division and Office of

Human Capital (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 targeted steps to prevent repeat violations, recommending disciplinary action to hold individuals accountable, and making individual discrimination victims “whole” with appropriate damages.

In addition, OCR provides technical assistance to internal stakeholders, such as Bureau leadership, Bureau employees and applicants, the Bureau’s Workforce Effectiveness Committee (WEC), OMWI, DAP, the Bureau’s Office of Human Capital (OHC), the National Treasury Employees Union (NTEU),<sup>18</sup> Diversity and Inclusion Council of Employees (DICE), and Employee Resource Groups (ERGs) to achieve a model workplace. OCR partners with these stakeholders to 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>19</sup> and also CFPB’s Diversity and Inclusion Strategic Plan for 2019-2022 (updated in July 2019).<sup>20</sup> Together, these plans provide the strategic framework for driving the Bureau’s approach to EEO, D&I, and affirmative employment (including barrier-analysis efforts) under MD-715.

The OCR Director is an Assistant Director and has a dual reporting structure to both the CFPB Director and to the OEOF Associate Director. The OCR Director reports to the CFPB Director on all issues related to the Bureau’s EEO Program, and reports to the OEOF Associate Director on administrative and personnel matters. The CFPB Director is the reviewing official for the OCR Director’s annual performance review. In the EEOC’s technical assistance letter dated January 25, 2021, the EEOC cited the recent passage of the Elijah E. Cummings Act<sup>21</sup> as the reason the dual-reporting structure is now considered non-compliant as of 2021. The Bureau is

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<sup>18</sup> NTEU is the exclusive representation of CFPB employees.

<sup>19</sup> This five-year Bureau-wide Strategic Plan is available at <https://www.consumerfinance.gov/about-us/budget-strategy/strategic-plan/>. It explicitly requires CFPB to “Maintain comprehensive equal employment opportunity (EEO) compliance and diversity and inclusion programs, including those focused on minority and women inclusion.” *Id.* at 13.

<sup>20</sup> This three-year D&I Strategic Plan is available at <https://www.consumerfinance.gov/data-research/research-reports/cfpb-diversity-and-inclusion-strategic-plan-update-2019-2022/>.

<sup>21</sup> On January 1, 2021, Congress enacted the Elijah E Cummings Federal Employee Anti-Discrimination Act of 2020, Public Law 116-283, which is part of the National Defense Authorization Act (NDAA) for Fiscal Year 2021.

reviewing the reporting structure to ensure compliance with the Elijah E. Cummings Act. The OEOF Associate Director is not involved in, and is firewalled from, the processing of EEO complaints and/or issuance of Final Agency Decisions. Similarly, the OEOF Associate Director and the OCR Director are firewalled from the Disability Accessibility Program (DAP) and any involvement in disability reasonable accommodation requests. This mitigates actual and perceived conflicts between OCR and the OEOF Associate Director, between the DAP and the OEOF Associate Director, and between OCR and the DAP. This firewall was memorialized in a memorandum signed by the Bureau Chief of Staff on January 31, 2019.

The OCR Director leads a team of diverse professionals, including civil rights attorneys, and non-attorney experts, dispute prevention and resolution practitioners, and data and administrative support specialists. The OCR 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. The EEOC itself has often pointed to OCR-created policies, reports, practices, and templates as models for the rest of the federal-sector EEO community. In November 2020, OCR provided a list of best practices to the EEOC as a follow-up to the EEOC's technical assistance visit and some were highlighted in the EEOC's January 2021 technical assistance letter such as the Conflict Coaching Program.

To comply with Part 1614 and MD-715 requirements, 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 Bureau's EEO program. For example, the OCR Director exercises full authority to carry out OCR's Part 1614 functions without Legal Division (i.e., General Counsel) involvement. The Legal Division defends the Bureau in EEO matters, and thus is firewalled from all activities within OCR. The Legal Division only participates during adversarial portions of the EEO process (hearings and appeals), during settlement negotiations, including discussions occurring as a result of a request for mediation made through the Bureau's Alternative Dispute Resolution (ADR) Program), and/or to provide appropriate legal advice or assistance when a manager or supervisor requests it during the course of an EEO investigation.<sup>22</sup> Other Bureau offices (such as OHC) are similarly firewalled and kept separate

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<sup>22</sup> The Bureau is consistent with EEOC guidance and case law setting forth parameters for agency counsel involvement and professional responsibility rules governing attorney conduct. *See, e.g., Annalee D. v. Gen. Servs. Admin.*, EEOC Request No. 2019000778 (Nov. 27, 2019).

as necessary and appropriate to avoid conflicting or competing interests. During FY 2020, after OCR and the Legal Division completed benchmarking on settlement authority at other agencies, the Director delegated settlement authority concerning certain administrative matters to the Chief Operating Officer (COO), Chief of Staff, and Deputy Division-heads.

OCR staff conducts legal-sufficiency reviews of EEO matters.<sup>23</sup> Such reviews include, for example, preparing and issuing “Accept/Dismiss” determinations addressing jurisdiction over, and scope of, claims set forth in formal complaints;<sup>24</sup> conducting an impartial and appropriate investigation of accepted formal complaints; conducting substantive reviews of the Reports of Investigations (ROIs) to ensure compliance with laws and regulations; and drafting of Final Agency Decisions (FADs) and Final Agency Orders (FAOs) (as required by 29 C.F.R. § 1614.110).

At the same time, while OCR maintains the primary responsibility for many aspects of the Bureau’s overall EEO program, it collaborates as appropriate with the Office of Minority and Women Inclusion (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. Under the Dodd-Frank Act, the OMWI Director must develop certain standards for EEO and diversity at the

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<sup>23</sup> Legal resources within OCR make this possible. The Bureau and OCR have adopted the EEOC’s recommended best practice and OCR and the Legal Division signed an MOU to solidify the agreement. 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>24</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 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.

Bureau,<sup>25</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 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>26</sup> OCR also coordinates on a general basis with OHC on, among other topics, the harassment-prevention program which OHC administers. In addition, OCR collaborates as appropriate with the Legal Division, which, among other things, trains and advises Bureau managers and supervisors on merit system principles, prohibited personnel practices, and whistleblower protections under applicable civil services laws.

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<sup>25</sup> The OMWI Director is an Assistant Director and (like the OCR Director) has dual reporting – to the CFPB Director and to the OEOF Associate Director. *See* 12 U.S.C. § 5452(b)(1). The OMWI Director 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>26</sup> *See* 29 U.S.C. § 791 *et seq.*; *see also* 29 C.F.R. § 1614.203.



# 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:<sup>27</sup>

- 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);

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<sup>27</sup> On January 1, 2021, Congress enacted the Elijah E Cummings Federal Employee Anti-Discrimination Act of 2020, Public Law 116-283, which is part of the National Defense Authorization Act (NDAA) for Fiscal Year 2021. The Bureau will review and adjust accordingly for FY 2021, such as tracking whether a decision has been made regarding disciplinary action if a case has a finding of discrimination.

- 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>28</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 2020, the Bureau had two civil actions pending or resolved in federal court(s) related to one or more of these civil rights laws. These cases involved alleged violations of Title VII (two cases<sup>29</sup>), the Equal Pay Act (one case), the Age Discrimination Act (one case), and/or the Rehabilitation Act (two cases). In the case alleging Title VII, Equal Pay Act, and Rehabilitation Act violations, the D.C. District Court set a revised scheduling order and discovery is ongoing. In the case alleging Title VII, Age Discrimination Act violations, and Rehabilitation Act violations, the U.S. District Court for the Western District of North Carolina dismissed the plaintiff's complaint for failure to state a claim.

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<sup>28</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). To date, The Bureau has not had any cases or complaints filed under GINA. Nonetheless, in the interests of completeness and should such cases or complaints be filed in the future, CFPB will include relevant data here on any federal court cases or EEO complaints alleging violations of GINA.

<sup>29</sup> One case involved race and the other case involved race and sex.

## 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>30</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>31</sup>

In FY 2020, the Bureau neither made reimbursements to the Judgment Fund nor needed to adjust its budget to comply with No FEAR Act reimbursement requirements.<sup>32</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 programs. These and other personnel-related policies and procedures aid in the proactive prevention of discrimination and increase management and program accountability.

The Bureau holds supervisory and management officials accountable for complying with the policies and procedures listed in Table 2 below.

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<sup>30</sup> See <https://www.fiscal.treasury.gov/fsservices/gov/pmt/jdgFund/questions.htm>.

<sup>31</sup> See Pub. L. No. 107-174, § 201(b); *see also* 5 C.F.R. §§ 724.102, 103.

<sup>32</sup> See Pub. L. No. 111-203, § 1017.

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

<b>CFPB policies governing EEO, D&amp;I, and personnel Issues</b>
CFPB-NTEU Collective Bargaining Agreement (including the Equal Employment Opportunity Article)
Affirmative Action Plan for Individuals with Disabilities and Targeted Disabilities
Alternative Dispute Resolution Policy
Administrative Grievance Policy
Employee Resource Group (ERG) Policy
Disciplinary and Adverse Action Policy
Policy and Procedures for Addressing Misconduct
Equal Employment Opportunity and Non-Discrimination Policy
Anti-Harassment Policy and Related Procedures
Hiring, Promotion, and Internal Personnel Movements Policy
Attorney Hiring and Promotion Policy
Disability Reasonable Accommodation/Personal Assistance Services Policy, Procedures, and Forms
Standard Operating Procedures Related to Disability Reasonable Accommodation/PAS Requests
Religious Accommodation Policy and Procedures
Directive on Schedule A(u) Appointing Authority for Persons with Disabilities
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 October 10, 2017, contains 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. As a matter of policy, the Bureau applies certain CBA articles to both bargaining and non-bargaining unit employees.

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." This 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 Bureau 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, sexual orientation, gender identity, and gender nonconformity), 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.

This policy provides examples of actions deemed unacceptable, and 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." Like the CBA Adverse Action Article, Bureau policy incorporates the *Douglas* factors for arriving at appropriate penalties for infractions.

The Bureau's Anti-Harassment Policy and Related procedures, which were modeled on the EEOC's own policy/procedures, meet all the criteria established in EEOC's federal-sector anti-harassment enforcement guidance.<sup>33</sup>

In FY 2020, OHC, in consultation with the Bureau's Legal Division and OCR, revised the Policy and Procedures for Addressing Misconduct. The purpose of this policy is to ensure that:

all investigations into allegations of misconduct will be handled quickly, fairly, vigorously by the appropriate Office or Division and in accordance with applicable law, regulation, and policy, and in accordance with the procedures set forth herein, to include, but not limited to, the Collective Bargaining Agreement and the Cooperation with the Office of Inspector General Policy.

The Policy and Procedures for Addressing Misconduct defines examples of misconduct, explains the difference between performance deficiencies and misconduct, describes various routes that allegations of misconduct may be identified, recognizes the role of the Office of the Inspector General, defines procedures for what managers/supervisors should do versus what employees should do if they experience, witness, or learn of alleged misconduct, what to do if there is fear of reprisal or inadequate supervisory response and the appropriate points of contact.

This policy provides some examples of alleged misconduct, which include, but are not limited to:

- Insubordination or failure to follow instructions
- Tardiness or leave abuse
- Disrespectful and/or bullying language or behavior
- Reckless or willful disregard for information security protocols, including mishandling of non-public (CFPB-origin and other) information
- Misuse of government property including government travel cards
- Falsification or false official statement
- Negligence in performing duties
- Harassment which does not fall under the Bureau's Anti-Harassment Policy
- Violation of Federal regulation, policy or statute, including the criminal conflict of interest statutes and the Standards of Conduct

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<sup>33</sup> See EEOC Guidance, *Model EEO Programs Must Have an Effective Anti-Harassment Program*, available at [https://www.eeoc.gov/federal/model\\_eeo\\_programs.cfm](https://www.eeoc.gov/federal/model_eeo_programs.cfm).

Further, it explains what an employee should do if they fear reprisal or believe there has been an inadequate supervisory response. Specifically, the policy states:

An employee should contact the Office of Inspector General [OIG] if the employee fears reprisal, or believes he/she has been retaliated against, as a result of reporting to the OIG or participating in whistleblowing activities; and the employee has reported the matter to supervisory officials, but believes that the matter has not been adequately resolved.

The Bureau 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>34</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>35</sup> Employees are notified of this ethical requirement in mandatory ethics training, via posters, and through the Bureau's intranet.

In addition, the Bureau's Part 1614 complaints process, administered by OCR, safeguards employees' civil rights and provides appropriate relief for statutory violations.<sup>36</sup> In FY 2020, there were no findings of discrimination and thus no employees received formal disciplinary action as defined in 5 C.F.R. § 724.102<sup>37</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 whistleblower protection laws.<sup>38</sup> However, through an OHC process, one employee received a letter of reprimand for violating Bureau policies related to conduct that is inconsistent with Federal antidiscrimination laws. When there are findings of discrimination, OCR encourages Bureau officials to impose the maximum discipline supportable under the law and facts as

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<sup>34</sup> See 5 C.F.R. § 9401.101(b).

<sup>35</sup> See 5 C.F.R. § 2635.101(b)(13).

<sup>36</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>37</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>38</sup> See 5 C.F.R. §§ 724.302(a)(5), (a)(6).



relevant under the circumstances.<sup>39</sup> Where conduct was found to be inappropriate but not unlawful, the OCR Director may recommend particular improvements or corrections, including remedial or disciplinary actions, for managers and supervisors who have failed in their EEO responsibilities.

## 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>40</sup> This analysis is provided below.

### Trends and causal analysis

#### Pending Complaints

At the end of FY 2020, the Bureau had five formal EEO complaints from five complainants pending. As of the end of FY 2020, there were zero formal EEO complaints filed in previous fiscal years (FY 2019 or prior) remaining in the investigation phase or the election phase for a complainant to choose either a Final Agency Decision (FAD) or EEOC hearing. As of the end of FY 2020, there were zero formal EEO complaints pending in the Final Agency Action phase. Five complaints were pending at the EEOC hearing phase, compared to nine in FY 2019 and 14 in FY 2018. Seven complaints were pending at the EEOC appeal phase, compared to seven in FY 2019 and three in FY 2018.<sup>41</sup>

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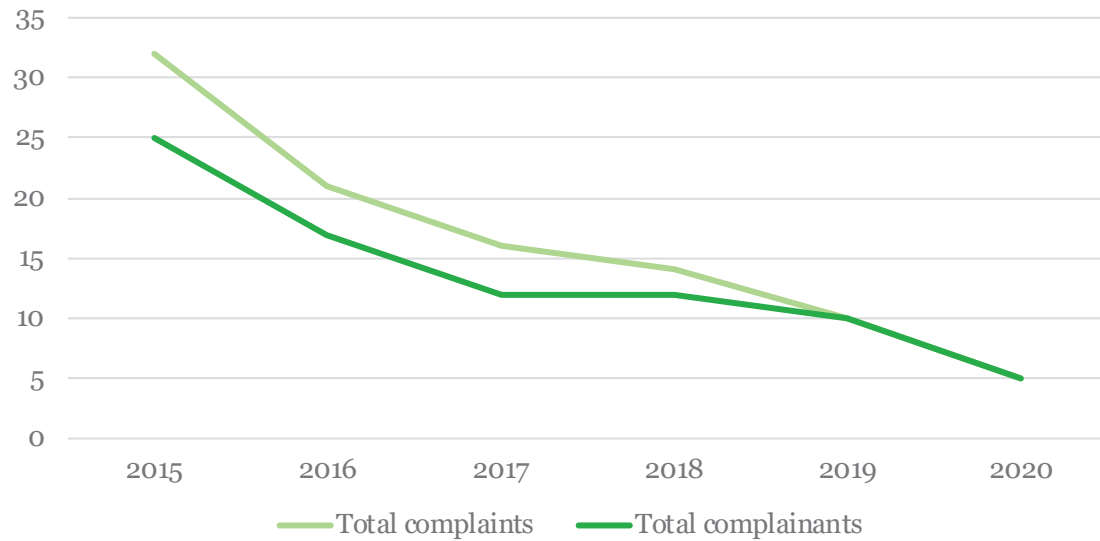
<sup>39</sup> See 29 C.F.R. § 1614.102(a)(6) (providing that, in supporting its EEO program, agencies shall “[t]ake appropriate disciplinary action against employees who engage in discriminatory practices”).

<sup>40</sup> See Pub. L. No. 107-174, Section 203(a)(7); *see also* 5 C.F.R. § 724.302(a)(7).

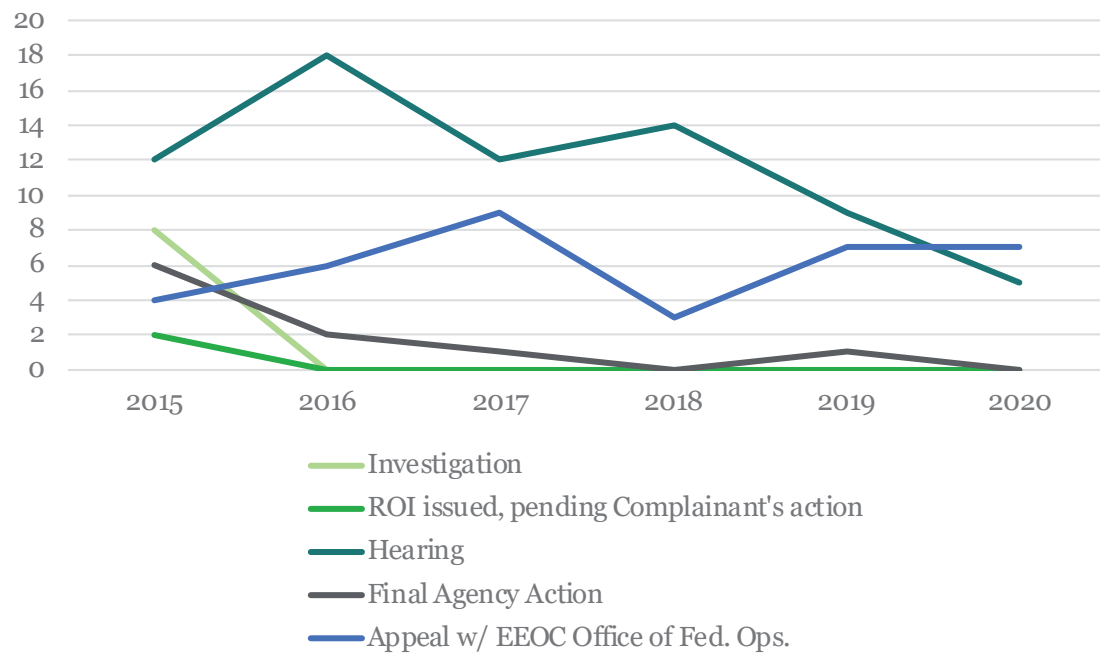
<sup>41</sup> Hearings and appeal stages of the Part 1614 EEO complaint process are managed by the EEOC. If a complainant requests an EEOC hearing the matter becomes adversarial and the Bureau’s Legal Division represents CFPB as a party in the proceeding, including on any administrative appeal filed with EEOC’s Office of Federal Operations.

Figure 2 and Figure 3 present this data and related data for other previous fiscal years.

**FIGURE 2:** PENDING COMPLAINTS AND INDIVIDUALS FILING COMPLAINTS FY 2015 – FY 2020



**FIGURE 3:** PENDING COMPLAINT STATUSES FY 2015 – FY 2020



## Total New Complaint Filings and Number of Complainants

During FY 2020, the Bureau experienced a slight increase in the number of formal EEO complaints filed compared with FY 2019 (from 17 to 18). The 17 complainants who filed formal complaints in FY 2020 represent 1.13 percent of CFPB's total workforce of 1,503 individuals.<sup>42</sup> This represents an increase of 0.15 percent compared to FY 2019, when the ratio (of 14 complainants as a percentage of the total workforce of 1,424 individuals) was 0.98 percent.

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

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
CFPB Formal EEO Complaints	22 <sup>43</sup>	19 <sup>44</sup>	5	21 <sup>45</sup>	17 <sup>46</sup>	18
CFPB Complainants	19	18	5	19	14	17

<sup>42</sup> Total workforce encompasses employees on permanent and temporary appointments, including interns (if any).

<sup>43</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>44</sup> 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 as individual complaints. See 29 C.F.R. § 1614.204(d)(7). Total *new* formal complaints filed in FY 2016 were 16.

<sup>45</sup> One of these complaints alleged a violation of Executive Order 11478 (as amended) only. The Bureau processed this complaint pursuant to a policy the Bureau has established to address such allegations. In FY 2018 CFPB received 20 new formal complaints filed (in whole or in part) under 29 C.F.R. Part 1614.

<sup>46</sup> Two of these reported matters involve alleged violations of Executive Order 11478 (as amended) only. In FY 2019 CFPB received 15 new formal complaints filed (in whole or in part) under 29 C.F.R. Part 1614.

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
CFPB Total Workforce <sup>47</sup>	1533	1652	1643	1502	1424	1503
CFPB Formal Complaints as Percentage of Total Workforce	1.44	1.15	0.30	1.40	1.19	1.20
CFPB Complainants as Percentage of Total Workforce	1.24	1.09	0.30	1.26	0.98	1.13
All Similarly Sized (Medium- Size) <sup>48</sup> Agencies (Complainants as Percentage of Total Workforce)	0.56	0.60	0.54	0.55	Not yet Reported	Not yet Reported
Government-wide (Complainants as Percentage of Total Workforce) <sup>49</sup>	0.51	0.54	0.53	0.52	Not yet Reported	Not yet Reported

Figure 4 presents two graphs showing trends in informal and formal complaint activity from FY 2015 through FY 2020, along with corresponding figures for the total workforce at the end of 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.

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<sup>47</sup> Workforce numbers for previous fiscal year No FEAR Act reports may differ slightly from corresponding data reported in this FY 2020 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>48</sup> For this purpose, EEOC classifies “medium” agencies as those with 1,000 to 14,999 employees.

<sup>49</sup> The EEOC’s website contains the most recent available government-wide statistics on this topic. See <https://www.eeoc.gov/federal/reports/tables.cfm>.

**FIGURE 4:** CFPB INFORMAL AND FORMAL EEO COMPLAINT ACTIVITY AND TOTAL WORKFORCE  
FY 2015 - FY 2020

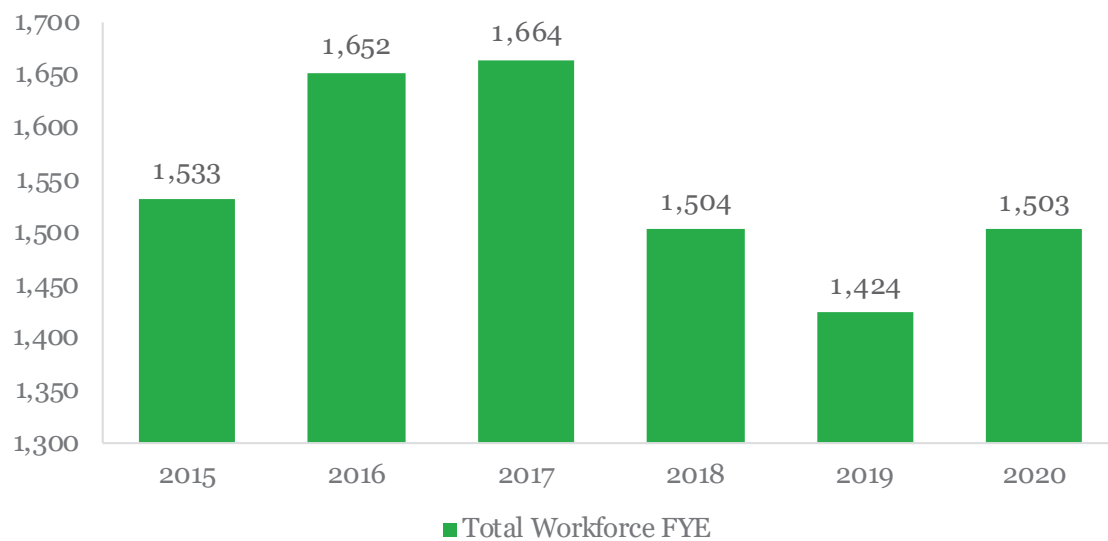
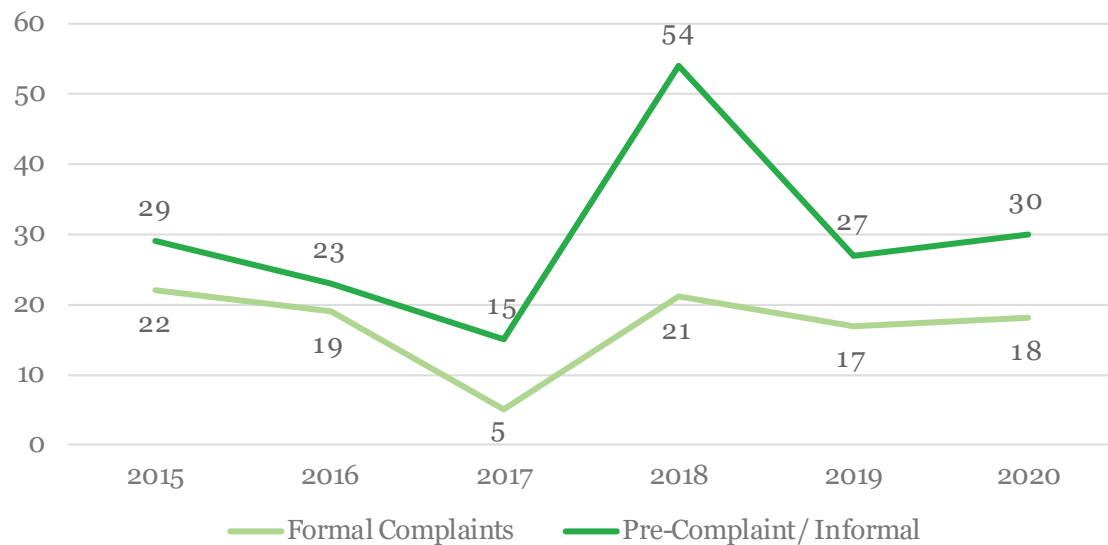
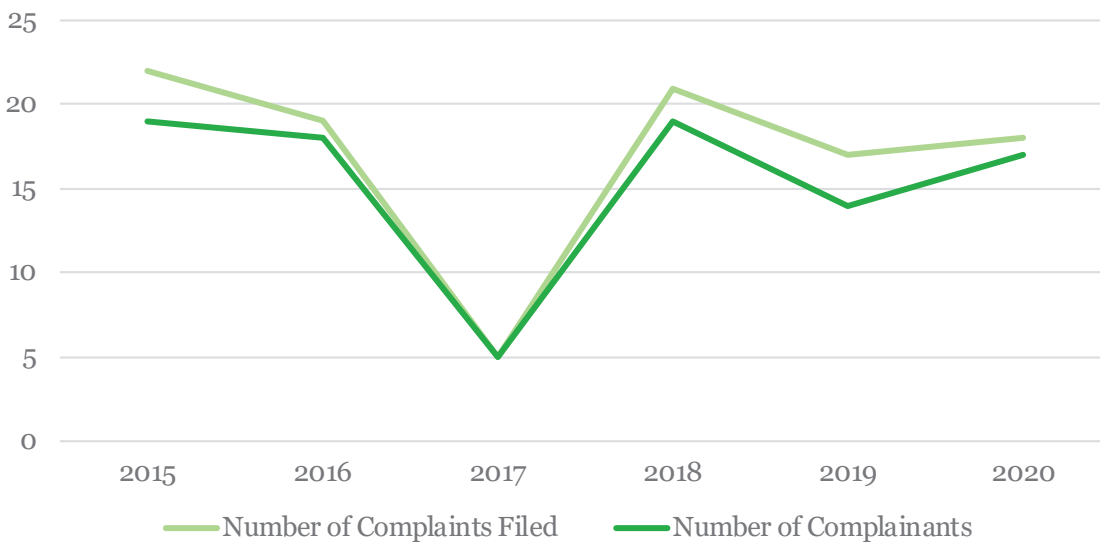


Figure 5 provides a graphical representation of formal EEO complaint activity and individual complainant figures since FY 2015.

**FIGURE 5:** CFPB FORMAL EEO COMPLAINT ACTIVITY FY 2015 – FY 2020



## Bases and Issues

In FY 2020, the most frequently cited bases of discrimination in the 18 formal EEO complaints filed were Reprisal (14), Race (8), Sex (7), and Disability (6).<sup>50</sup> In FY 2019, the most common bases alleged in the 17 formal complaints were Race (9), Reprisal (9), Sex (9) and Age (7).

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<sup>50</sup> Although there were 18 formal complaints filed in FY 2020, there are more than 18 total bases of discrimination alleged because a complainant may (and often does) assert more than one basis per complaint.

Figure 6 presents formal EEO complaints by basis for FY 2020.

**FIGURE 6:** FORMAL EEO COMPLAINT ACTIVITY BY BASIS FY 2020

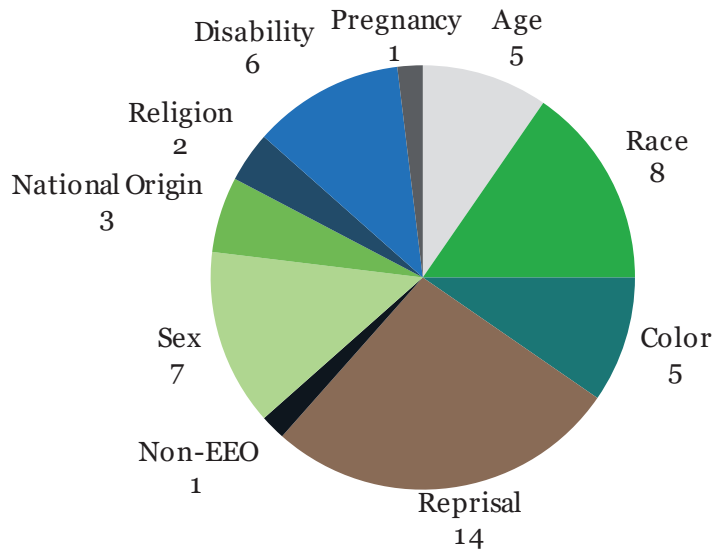
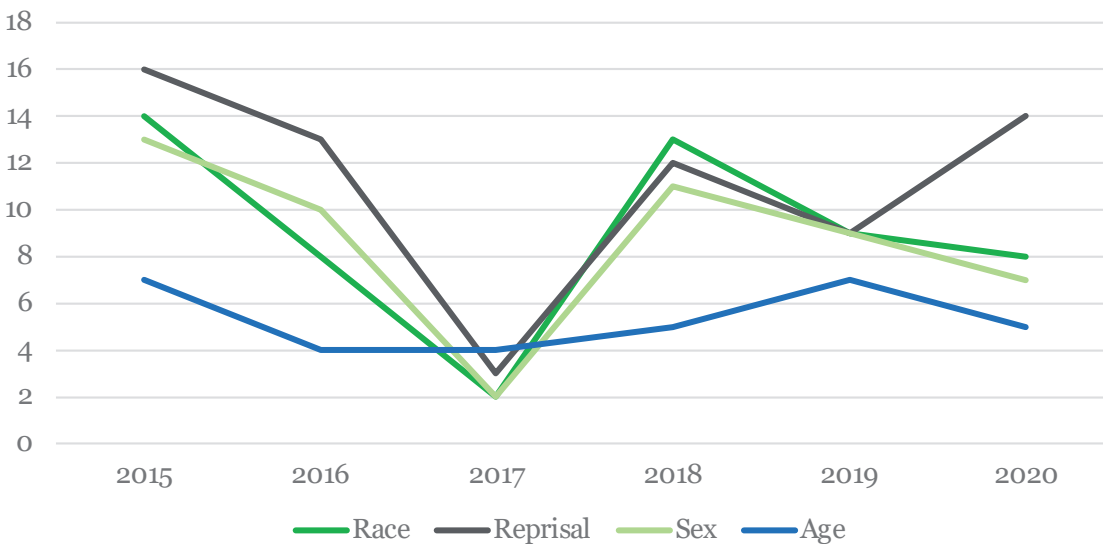


Figure 7 presents frequencies of bases appearing in the top three for any year from FY 2015 - FY 2020.

**FIGURE 7:** FORMAL EEO COMPLAINT ACTIVITY BY BASIS FY 2015 – FY 2020



The most frequently raised issues in formal EEO complaints in FY 2020 were Harassment-Non Sexual (10), Assignment of Duties (4), Promotion/Non-Selection (4), and Terms/Conditions of Employment (4). In comparison, FY 2019's most frequently alleged issues were Harassment-Non Sexual (11), Pay (Including Overtime) (9), Assignment of Duties (6), and Terms/Conditions of Employment (6).

Figure 8 presents formal EEO complaints by issue for FY 2020.

**FIGURE 8:** FORMAL EEO COMPLAINT ACTIVITY BY ISSUE FY 2020

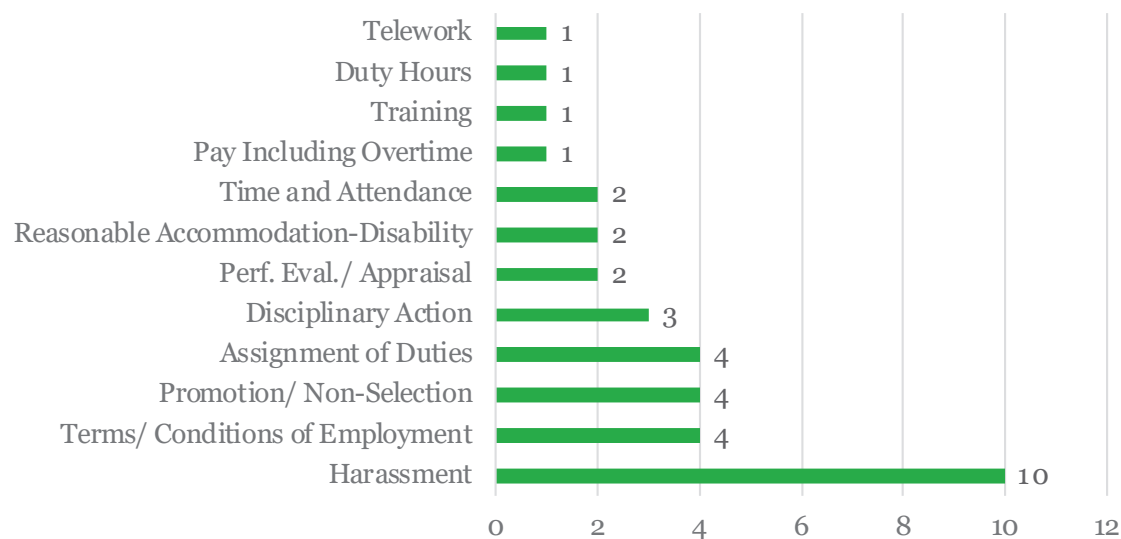
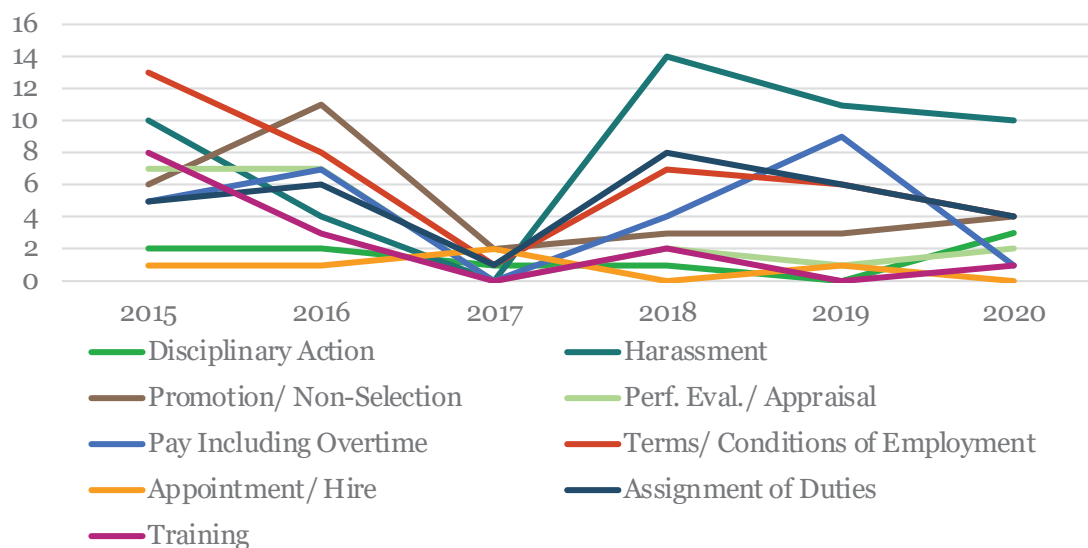




Figure 9 presents frequencies of issues appearing in the top three for any year from FY 2015 – FY 2020.

**FIGURE 9:** FORMAL EEO COMPLAINT ACTIVITY BY ISSUE FY 2015 – FY 2020



Bases and issues in CFPB formal EEO complaint filings in FY 2020 were somewhat consistent with government-wide and comparable agency statistics. According to the EEOC, across the Federal government in FY 2018, Reprisal was the most frequently cited basis, followed by Age and Disability (physical).<sup>51</sup> Additionally, in FY 2020, Reprisal, Race, Sex, and Age were among the most common complaint bases among other medium-sized financial regulatory agencies with at least 10 complaints.<sup>52</sup>

The EEOC tables for FY 2018 formal EEO complaint data indicate the most frequently alleged issue in formal complaints government-wide was Non-Sexual Harassment, followed by

<sup>51</sup> See EEOCFY 2018 Table B-8, available at [https://www.eeoc.gov/federal/reports/fsp2018/2018\\_complaints\\_tables.zip](https://www.eeoc.gov/federal/reports/fsp2018/2018_complaints_tables.zip).

<sup>52</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-4-FY20.pdf>. SEC data is located at <https://www.sec.gov/eeoinfo/nofeardata.htm>.

Disciplinary Action and then Terms/Conditions of Employment.<sup>53</sup> In FY 2020, Non-Sexual Harassment, Terms/Conditions of Employment, Promotion/Non-Selection and Assignment of Duties were all among the most common issues for medium-sized financial regulatory agencies that have had more than 10 formal EEO complaints filed.<sup>54</sup>

## Processing Times

In FY 2020, OCR completed 29 EEO counselings under Part 1614. OCR received a total of 30 new informal complaints/requests for EEO counseling during FY 2020 (not all were completed before the end of FY 2020); this compares with 27 new counseling requests in FY 2019. All counselings completed in FY 2020 qualified as timely under 29 C.F.R. § 1614.105. Eighteen counselings were timely completed within 30 days; five traditional counselings were completed timely with written extensions of no longer than 60 days. Six counselings were processed through the Bureau's ADR program and were timely completed within 90 days.<sup>55</sup> In each of these counselings, the Bureau provided the required notification to individuals on their various rights and responsibilities in the EEO process. This information was provided during the initial counseling session verbally and later in writing.<sup>56</sup>

As noted above, in FY 2020, 18 new formal EEO complaints were filed under Part 1614 and/or Executive Order 11478 (as amended), compared with 17 in FY 2019. In all new formal EEO complaints, CFPB issued acknowledgement letters immediately upon receipt of a formal complaint.<sup>57</sup> Of the 18 new formal EEO complaints that were filed in FY 2020, the average length of time for issuing the acknowledgement letter was three days. In addition, OCR issued all Acceptance letters/Dismissal decisions within a reasonable time (e.g., 60 days) after receipt

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<sup>53</sup> See EEOCFY 2018 Table B-8, *available at* [https://www.eeoc.gov/federal/reports/fsp2018/2018\\_complaints\\_tables.zip](https://www.eeoc.gov/federal/reports/fsp2018/2018_complaints_tables.zip).

<sup>54</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-4-FY20.pdf>. SEC data is located at <https://www.sec.gov/eeoinfo/nofeardata.htm>.

<sup>55</sup> See 29 C.F.R. §§ 1614.105(d), (f).

<sup>56</sup> See 29 C.F.R. § 1614.105(b)(1).

<sup>57</sup> See MD-110, Chapter 5, at Section I.

of the formal complaint.<sup>58</sup> Of the 18 new formal EEO complaints that were filed in FY 2020, the average length of time for issuing the Accept/Dismiss communication was 19 days. In FY 2020, CFPB dismissed three formal complaints;<sup>59</sup> the average days such complaints were pending before dismissal was 19 days.

In FY 2020, OCR conducted investigations of formal EEO complaints within the regulatory timeframes, although the timeframes did increase.<sup>60</sup> The 9 investigations completed during FY 2020 were completed in an average of 254 days. With respect to formal complaint processing, in FY 2020:

- 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 253.56, an increase from an average of 227.24 days in FY 2019;
- The average number of days in investigation for complaints pending for any length of time during FY 2020 where a hearing was requested was 277.33, an increase from an average of 229.00 days in FY 2019; and
- The average number of days in investigation for complaints pending for any length of time during FY 2020 where a hearing was not requested was 241.67, an increase from an average of 225.92 days in FY 2019.

All investigations in FY 2020 were completed within the EEOC's regulatory timeframes.

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 9 investigations completed during FY 2020, seven exceeded 180 days due to amendments that extended processing timelines under applicable regulations (they were not untimely). In all

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<sup>58</sup> Id.

<sup>59</sup> In the Bureau's FY 2020 Form 462, there were two dismissals. An event was updated in iComplaints after the Form 462 was filed that changed the number of dismissals from two to three.

<sup>60</sup> See 29 C.F.R. § 1614.108(f).

cases where ROIs were issued beyond 180 days, a “180-day letter” was issued.<sup>61</sup>

As of the end of FY 2020, 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 2020 was 47.27. All Final Agency Decisions (FADs) and Final Agency Orders (FAOs) were issued on time. During FY 2020, OCR issued 12 FADs and two FAOs.

In FY 2020, OCR issued eight FADs on the merits. The average length of time for issuing these FADs was 53.62 days – under the regulatory requirement of 60 days.<sup>62</sup>

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>63</sup> The Bureau also timely issues FAOs following receipt of any EEOC AJ decision and the associated hearings file.<sup>64</sup> In FY 2020, the average length of time for issuing FAOs (two were issued in FY 2020) was 29.5 days.

## Practical knowledge gained

The Bureau has worked to create a best-in-class EEO program. Over the past six 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 Bureau’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-Bureau strategy, by collaborating with Bureau leaders, the diversity-and-inclusion office (OMWI), human capital management (OHC), and related

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<sup>61</sup> See 29 C.F.R. §1614.108(g).

<sup>62</sup> See 29 C.F.R. § 1614.110(b).

<sup>63</sup> See 29 C.F.R. § 1614.403(g).

<sup>64</sup> See 29 C.F.R. § 1614.110(a).

stakeholders such as the union (National Treasury Employees Union), 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 Bureau 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., 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 and Related Procedures (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 remains 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 workstyle or personality conflicts that may arise. The Bureau 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’s EEO program evolves. CFPB’s FY 2020 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 2021 and beyond.<sup>65</sup>

In FY 2021 CFPB’s OCR intends to:

- Address both items raised in EEOC’s January 25, 2021 technical-assistance letter to include the OCR Director reporting structure in light of the recent passage of the Elijah E. Cummings Federal Employee Anti-Discrimination Act of 2020, Public Law 116-283, and the low Alternative Dispute Resolution (ADR) participation rate during the informal stage of the EEO complaints process.
- Continue to market the Bureau-wide ADR Program as a tool to de-escalate all types of

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<sup>65</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.)

workplace conflicts, and promote the Conflict Coaching Program.

- Continue to manage informal and formal EEO complaints appropriately.
- Engage in the newly created People Action Planning Working Group (PWG) to begin the disability action planning and implementation of items to rectify barriers identified in the recently concluded barrier analysis study. This group will also continue to implement action items to rectify previous barriers identified.
- Utilize the trigger identification software for barrier analysis purposes.
- Migrate our existing EEO complaint system, iComplaints, to Entellitrak.
- Ensure compliance with the Elijah E. Cummings Federal Employment Discrimination Act of 2020 and implement additional tracking on disciplinary action in EEO complaints and on class complaints, prepare for the additional requirements under the No FEAR Act.
- Continue to collaborate with DAP, OHC and OMWI to combine data and present to Division leaders 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 workforce data, and any other relevant data to help leaders identify issues within their respective Division.

More generally, the Bureau will focus on the following objectives during FY 2021:

- 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;
- Increasing employee awareness of EEO statutes, including by distributing EEO-related

information via various means and media (e.g., digital channels, informational brochures and fact sheets, individual and group training and outreach);

- Promoting communication 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;
- Continuing to collaborate with stakeholders across the Bureau 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;
- Cultivating an inclusive work environment, including by participating in WEC efforts, supporting the implementation of Employee Resource Groups (ERGs) and staff-level diversity councils (e.g., DICE), etc.; 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>66</sup>

Each year, all CFPB employees must take a one-hour, web-based training on the No FEAR Act. Approximately 99 percent of employees completed this mandatory No FEAR Act training in FY 2020.

During FY 2020 and prior to the COVID-19 pandemic, CFPB was creating a new, interactive mandatory annual online No FEAR Act training to be taken by all CFPB employees. OCR, in partnership with the Legal Division, will finish developing one version of an online module for supervisors and a separate version for non-supervisory employees once the pandemic is over. This training will also meet new requirements adopted in the Dr. Chris Kirkpatrick Act of 2017 requiring agencies to provide training to supervisors on how to respond to complaints alleging violations of whistleblower protection laws. In the interim, the Bureau continues to use the No FEAR Act module available in the Bureau's learning management system.

Throughout FY 2020, OCR, in partnership with other Bureau offices such as OHC and the Legal Division, worked to ensure Bureau managers, supervisors, and all employees are aware of, have physical or electronic copies of, and/or know where to access all EEO policies and procedures and related information. The Bureau made use of virtually all the ideas suggested by the EEOC in its 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>67</sup> The Legal Division, OCR, OHC and OMWI also collaborated to create and publish a one-page Management Guide for Common Workplace Issues that indicates which office handles particular issues and which office(s) may also serve as a resource along with current contact information.

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<sup>66</sup> See Pub. L. No. 107-174, Section 202(c); see also 5 C.F.R. § 724.203.

<sup>67</sup> This guidance is available at [http://www.eeoc.gov/federal/preserving\\_access.cfm](http://www.eeoc.gov/federal/preserving_access.cfm).

**TABLE 4:** 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>Weekly Digest</i> and <i>Manager Minute</i> publications
Regular email messages to the entire workforce from the CFPB Director
“What EEO Means at CFPB” YouTube video from the CFPB Director and Senior Leaders
Monthly email messages to the entire workforce from the OMWI Director
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 to the entire workforce, posted on the Bureau’s intranet, distributed in hard copy, and displayed on physical stands throughout Bureau workspaces
Posters placed throughout all Bureau facilities in break rooms, work rooms, and elevator banks as well as virtual copies in the <i>Guide to the Office of Civil Rights and Equal Employment Opportunity</i>
A brochure on EEO rights and responsibilities provided electronically during the pandemic as well as posted on the Bureau’s intranet
A brochure on Alternative Dispute Resolution and CFPB’s ADR Program provided electronically during the pandemic as well as posted on the Bureau’s intranet
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 and Equal Employment Opportunity</i> (distributed in hard copy immediately to all new employees pre-pandemic and electronically during the COVID-19 pandemic)
<i>EEO Resource Manual for Managers and Supervisors</i> (provided in hard copy and/or digitally 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
“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)
Formal training and workshops including New Employee Orientation (NEO); mandatory 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 (e.g., What’s your micro-trigger?; Unconscious Bias; and Generations Working Together)

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

OCR “Top Ten EEO Tips” webinars and OCR outreach webinars (e.g., Lavender Scare; How to be an Anti-Racist)

OMWI-led *Learn More/Take Action Dialogue* series open to all employees in a virtual setting

Presentations and materials throughout the Bureau and on the Bureau’s intranet on the new Conflict Coaching Program

## 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:

# FY 2020 EEO and anti-harassment policy statement



Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552



March 2020

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

**FROM:** Kathleen L. Kraninger  
Director

**SUBJECT:** FY 2020 EEO and Anti-Harassment Policy Statement

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

**General EEO Policy**

CFPB has an [Equal Employment Opportunity and Non-Discrimination Policy](#). The CFPB-NTEU Collective Bargaining Agreement also contains an [Equal Employment Opportunity Article](#). It is the unequivocal and longstanding policy of the Consumer Financial Protection Bureau (CFPB or Bureau) to provide equal employment opportunity (EEO) to all employees and applicants for employment.

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 in 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 any discrimination against any employee or applicant for employment based on 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 (including harassment) on any of these protected bases also is prohibited by Federal statutes and/or Executive Orders.

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.

### **Anti-Harassment Policy**

CFPB has an [Anti-Harassment Policy and Related Procedures](#). The goal of the Bureau's anti-harassment policy and related procedures is to prevent harassing conduct from occurring and to stop it *before* it becomes unlawful. Accordingly, it is the unequivocal and longstanding policy of the Bureau to maintain a workplace free from any harassing conduct on any of the protected characteristics or traits outlined above.

The Bureau will not tolerate harassing conduct against any applicant, employee, or contractor. The Bureau prohibits harassing conduct in the workplace by anyone, including senior leaders, managers, supervisors, coworkers, or non-employees such as staff at examination sites, contract workers, security guards, and delivery or maintenance staff.

Harassing conduct includes *unwelcome* conduct based on any (or a combination of) protected traits or characteristics. Such conduct may take the form of any of the following (whether occurring in person, online or by email, on social media, or in any other manner):

- Offensive jokes, comments, objects, or pictures
- Questions about a person's identity (e.g., disability status, gender identity, sexual orientation, national origin, etc.)
- Undue attention
- Ridicule or mockery
- Insults or put-downs
- Touching/physical contact
- Slurs or epithets
- Threats or other forms of intimidation
- Physical or sexual assault.

Examples include (but are not limited to), allegations that:

- My coworkers constantly make derogatory comments about my disability.
- My supervisor reassigned me when I declined his invitation to a dinner date.
- My supervisor makes racially insensitive remarks and jokes at work.

Bureau policy does not prohibit all workplace-related conduct or misconduct individuals may find objectionable. Conduct based on a characteristic or trait that is *not* protected under federal employment civil rights laws or related federal authorities falls outside the scope of the Bureau's anti-harassment policy. Similarly, harassing conduct does not include ordinary supervisory actions (such as telling an employee that they are not performing a job adequately) not based on a protected characteristic or trait. Generally, allegations concerning performance issues, merely impolite behavior, or personality conflicts not based on any, or a combination of, protected characteristics or traits will not fall under the Bureau's anti-harassment policy. Also, occasional and innocuous compliments generally will not constitute harassing conduct.

### **How to Report Possible Harassment**

The Bureau cannot eliminate or address harassing conduct unless officials know about it. The best way to create a workplace culture free from harassing conduct is to ensure that individuals who witness or are the subject or object of such conduct feel encouraged, empowered, and obligated to report it. Every individual at the Bureau is in part responsible for creating this workplace culture.

Individuals who observe, experience, or otherwise learn about harassing conduct *must* report the conduct to any of the individuals or offices listed below. The Bureau will protect the confidentiality of the individuals making complaints to the fullest extent possible.

In general, anyone who is subjected to conduct that they experience as harassing should tell the person who engaged in the conduct to stop it. If the subject or object of the alleged harassing conduct is uncomfortable confronting the person who engaged in the conduct, or if the conduct continues following a request to stop, the subject or object of the alleged harassing conduct must come forward promptly and report the conduct to *any* of the following:

- The subject's immediate supervisor;
- The supervisor of the person responsible for the alleged conduct;
- Any management official with supervisory authority;
- The Office of Employee and Labor Relations (ELR), which can be reached at [CFPB\\_harassmentreferral@cfpb.gov](mailto:CFPB_harassmentreferral@cfpb.gov); and/or
- The Office of Civil Rights (OCR), which can be reached at [CFPB\\_EEO@cfpb.gov](mailto:CFPB_EEO@cfpb.gov) or 202-435-9EEO, 1-855-233-0362, or 202-435-9742 (TTY).

These individuals and offices have been trained on how to respond to reports of harassing conduct and will be held accountable for responding appropriately to such reports. Managers and supervisors will also receive periodic mandatory anti-harassment training and are required to immediately report such conduct to ELR.



### **Protection Against Retaliation**

The Bureau supports the right of any employee who believes they have been discriminated against or harassed (or who believes they have witnessed discrimination or harassment) to reasonably oppose such conduct, to file a complaint about it, or to participate in any related inquiry or investigation *without fear of retaliation*.

Accordingly, the Bureau will not tolerate retaliation against any applicant, employee, or contractor for opposing harassing conduct, reporting harassing conduct, or participating or assisting in any inquiry, investigation, lawsuit, or other proceeding concerning harassing conduct.

Any employee who engages in prohibited retaliation is subject to disciplinary action, as appropriate. Management will be held accountable for preventing and promptly stopping and correcting any retaliatory conduct.

### **Filing an EEO Complaint for Violations of Law and Executive Orders**

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 a management official or to OHC/ELR does *not* satisfy your obligation to contact OCR within 45 calendar days to seek legal redress for violations of EEO laws and Executive Orders. Further, if you contact OCR to report unlawful harassment, OCR has an obligation to also refer the matter to OHC/ELR for investigation (as appropriate) under Bureau policy. OHC may undertake its own independent internal investigation of the allegations to satisfy its obligations to exercise due care to promptly eliminate all harassing conduct in the workplace.

### **Additional Information**

You can [read the complete CFPB Anti-Harassment and Related Procedures](#).

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

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

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

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

- the CFPB's intranet at <http://team.cfpb.local/wiki/index.php/EEO>
- the U.S. Equal Employment Opportunity Commission website at <http://www.eeoc.gov>
- the U.S. Office of Special Counsel website at <http://www.osc.gov>
- the U.S. Department of Labor Veterans' Employment and Training Service website at <https://www.dol.gov/vets/>
- the U.S. Merit Systems Protection Board website at <http://www.mspb.gov>
- the U.S. Federal Labor Relations Authority 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  
Fourth 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

# FY 2020 Notice on the No FEAR Act and whistleblower protection laws/prohibited personnel practices

Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552



**March 2020**

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

**FROM:** Kathleen L. Kraninger  
Director

**SUBJECT:** FY 2020 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 such as 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. 107-174, 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 are 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 of an alleged discriminatory act – 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

U.S. Department of Labor (DOL), the U.S. [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 U.S. [Federal Labor Relations Authority](#) (FLRA).

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

Federal employees have the right to be free from “[Prohibited Personnel Practices](#)” (“PPPs”), 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; and/or (6) censorship related to research, analysis, or technical information, 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, Congress and committees of Congress 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 [webpage](#) 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 "[Know Your Rights When Reporting Wrongs](#)" – a fact sheet that describes avenues for making whistleblower disclosures and OSC's role in accepting complaints from federal employees, including how to make disclosures of information protected from public release by law.

If you believe that you have been the victim of a prohibited personnel practice, including whistleblower or other retaliation under 5 U.S.C. §§ 2302(b)(8) or (b)(9), you may file a written complaint ([OSC Form-14](#)) 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 more information regarding Federal antidiscrimination, whistleblower protection, and retaliation laws on:

- the CFPB's intranet at <http://team.cfpb.local/wiki/index.php/EEQ>
- the U.S. Equal Employment Opportunity Commission website at <http://www.eeoc.gov>
- the U.S. Office of Special Counsel website at <http://www.osc.gov>
- the U.S. Department of Labor Veterans' Employment and Training Service website at <https://www.dol.gov/vets/>
- the U.S. Merit Systems Protection Board website at <http://www.mspb.gov>
- the U.S. Federal Labor Relations Authority 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'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  
Fourth 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, 2020.

- 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 5: COMPLAINT ACTIVITY

Complaint Activity	2014	2015	2016	2017	2018	2020
Number of complaints filed	22	19*	5	21**	17***	18
Number of complainants	19	18	5	19	14	17
Repeat filers <sup>68</sup>	3	1	0	2	3	1

\* 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 as individual complaints. *See* 29 C.F.R. § 1614.204(d)(7). Total *new* formal complaints filed in FY 2016 were 16.

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

\*\*\* Two of these reported matters involve alleged violations of Executive Order 11478 (as amended) only. In FY 2019 CFPB received 15 new formal complains filed (in whole or in part) under 29 C.F.R. Part 1614.

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<sup>68</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.

## 1.1 Complaints by basis

**TABLE 6:** COMPLAINTS BY BASIS\*

Complaints by Basis	2015	2016	2017	2018	2019	2020
Race	14	8	2	13	9	8
Color	10	6	1	5	4	5
Religion	2	0	0	2	0	2
Reprisal	16	13	3	12	9	14
Sex	13	10	2	11	9	7
Pregnancy (PDA)	0	2	0	0	0	1
National Origin	5	2	1	0	2	3
Equal Pay (EPA)	2	5	0	0	1	0
Age	7	4	4	5	7	5
Disability	10	4	0	5	4	6
Genetic Information	0	0	0	0	0	0
Non-EEO	0	2	1	2	3	1

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



## 1.2 Complaints by issue

TABLE 7: COMPLAINTS BY ISSUE

Complaints by Issue	2015	2016	2017	2018	2019	2020
Appointment/Hire	1	1	2	0	1	0
Assignment of Duties	5	6	1	8	6	4
Awards	0	0	0	2	0	0
Conversion to Full Time/Permanent Status	3	2	0	0	1	0
Duty Hours	0	0	0	3	4	1
Performance Evaluation/Appraisal	7	7	0	2	1	2
Examination/Test	0	0	0	0	0	0
Medical Examination	0	0	0	0	1	0
Pay (Including Overtime)	5	7	0	4	9	1
Promotion/Non-Selection	6	11	2	3	3	4
Reasonable Accommodation – Disability	2	3	0	1	4	2
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	1
Termination	0	1	0	0	1	0
Terms/Conditions of Employment	13	8	1	7	6	4
Time and Attendance	2	3	0	2	3	2
Training	8	3	0	2	0	1

Complaints by Issue	2015	2016	2017	2018	2019	2020
Other	1	0	0	0	0	0

**TABLE 8:** COMPLAINTS INVOLVING DISCIPLINARY ACTION

Type of Disciplinary Action	2015	2016	2017	2018	2019	2020
Demotion	0	1	0	0	0	0
Reprimand	2	1	1	0	0	3
Suspension	0	0	0	0	0	0
Removal	0	0	0	1	0	0
Other	0	0	0	0	0	0

**TABLE 9:** COMPLAINTS INVOLVING HARASSMENT

Type of Harassment	2015	2016	2017	2018	2019	2020
Non-Sexual	9	4	0	12	11	10
Sexual	1	0	0	2	0	0

**TABLE 10:** COMPLAINTS INVOLVING REASSIGNMENT

Type of Reassignment	2015	2016	2017	2018	2019	2020
Denied	1	0	0	0	0	0
Directed	1	1	0	3	1	0

## 2. Complaint processing times

**TABLE 11:** PROCESSING TIMES FOR COMPLAINTS PENDING (FOR ANY LENGTH OF TIME) DURING FISCAL YEAR

Type of Processing Time	2015	2016	2017	2018	2019	2020
Average number of days in investigation	247.00	270.05	238.20	142.86	227.24	253.56
Average number of days in final action	119.00	91.83	60.50	133.00*	39.94	47.27

\* 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 12:** PROCESSING TIMES FOR COMPLAINTS PENDING (FOR ANY LENGTH OF TIME) DURING FISCAL YEAR WHERE HEARING WAS REQUESTED

Type of Processing time	2015	2016	2017	2018	2019	2020
Average number of days in investigation	183.00	242.83	240.83	190.33	229.00	277.33
Average number of days in final action	219.00	0.00	35.67	35.00	24.33	44.80

**TABLE 13:** COMPLAINTS PENDING (FOR ANY LENGTH OF TIME) DURING FISCAL YEAR WHERE HEARING WAS NOT REQUESTED

Type of Processing Time	2015	2016	2017	2018	2019	2020
Average number of days in investigation	293.00	316.71	243.33	107.25	225.92	241.67
Average number of days in final action	52.00	91.83	85.33	165.67*	49.30	49.33

\* 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 14:** COMPLAINTS DISMISSED BY THE BUREAU

<b>Bureau's Dismissal Information</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Total complaints dismissed by Bureau	2	1	1	4	4	2
Average days pending prior to dismissal	26.00	34.00	21.00	13.00	15.00	21.00

**TABLE 15:** COMPLAINTS WITHDRAWN BY COMPLAINANTS

<b>Complaints Withdrawn</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Total complaints withdrawn by complainants	1	2	3	0	1	4

## 4. Findings of discrimination

**TABLE 16:** TOTAL FINAL AGENCY ACTIONS FINDING DISCRIMINATION

Type of Findings	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
Total findings	0	0	1	100	0	0	1	100	0	0	0	0
Without hearing	0	0	1	100	0	0	1	100	0	0	0	0
With hearing	0	0	0	0	0	0	0	0	0	0	0	0

### 4.1 Findings by basis\*

**TABLE 17:** TOTAL FINDINGS OF DISCRIMINATION RENDERED BY BASIS

Basis	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
Total findings	0	0	1	100	0	0	1	100	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	1	100	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	1	100	0	0	1	100	0	0	0	0

Basis	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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 18:** FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY BASIS

Basis	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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 19:** FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY BASIS

Basis	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
Total findings	0	0	1	100	0	0	1	100	0	0	0	0
Race	0	0	0	0	0	0	0	0	0	0	0	0

<b>Basis</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>	<b>2019 #</b>	<b>2019 %</b>	<b>2020 #</b>	<b>2020 %</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	1	100	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	1	100	0	0	1	100	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

\* 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 20:** TOTAL FINDINGS OF DISCRIMINATION RENDERED BY ISSUE

<b>Issue</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>	<b>2019 #</b>	<b>2019 %</b>	<b>2020 #</b>	<b>2020 %</b>
Total findings	0	0	1	100	0	0	1	100	0	0	0	0
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	1	100	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

Issue	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/Appraisal	0	0	1	100	0	0	0	0	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	1	100	0	0	1	100	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 21:** FINDINGS OF DISCRIMINATION RENDERED BY ISSUE – DISCIPLINARY ACTION

Type of Disciplinary Action	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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 22:** FINDINGS OF DISCRIMINATION RENDERED BY ISSUE – HARRASSMENT

Type of Harassment	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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 23:** FINDINGS OF DISCRIMINATION RENDERED BY ISSUE – REASSIGNMENT

Type of Reassignment	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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 24:** FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE

Issue	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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>2015 #</b>	<b>2015 %</b>	<b>2016 #</b>	<b>2016 %</b>	<b>2017 #</b>	<b>2017 %</b>	<b>2018 #</b>	<b>2018 %</b>	<b>2019 #</b>	<b>2019 %</b>	<b>2020 #</b>	<b>2020 %</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 25:** FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE – DISCIPLINARY ACTION

<b>Type of Disciplinary Action</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>	<b>2019 #</b>	<b>2019 %</b>	<b>2020 #</b>	<b>2020 %</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	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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 26:** FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE – HARASSMENT

Type of Harassment	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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 27:** FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE – REASSIGNMENT

Type of Reassignment	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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 28:** FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY ISSUE

Type of Issue	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
Total findings without hearing	0	0	1	100	0	0	1	100	0	0	0	0
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	1	100	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	1	100	0	0	0	0	0	0	0	0

Type of Issue	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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	1	100	0	0	1	100	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 29:** FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY ISSUE – DISCIPLINARY ACTION

Type of Discipline	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
Other	0	0	0	0	0	0	0	0	0	0	0	0

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

Type of Harassment	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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 31:** FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY ISSUE – REASSIGNMENT

Type of Reassignment	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %
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 32:** PENDING COMPLAINTS FILED IN PREVIOUS FISCAL YEARS BY STATUS

<b>Pending Complaints and Complainants</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Total complaints from previous fiscal years	32	21	16	14	10	5
Total complainants	25	17	12	12	10	5

**TABLE 33:** PENDING COMPLAINTS BY STATUS

<b>Where in EEO Process Complaints Are Pending</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Investigation	8	0	0	0	0	0
ROI issued, pending complainant's action	2	0	0	0	0	0
Hearing	12	18	12	14	9	5
Final Agency Action	6	2	1	0	1	0
Appeal with EEOC Office of Federal Operations	4	6	9	3	7	7

## 6. Investigation timeframes

**TABLE 34:** INVESTIGATIONS THAT EXCEED TIME FRAMES

Investigations	2015	2016	2017	2018	2019	2020
Pending complaints where investigations exceed required time frames	2	0	0	0	0	0