

No FEAR Act Report for fiscal year (FY) 2021

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

Message from the Office of Civil Rights Director



The Consumer Financial Protection Bureau (CFPB) mission is to make markets for consumer financial products and services work for Americans by promoting transparency and consumer choice and preventing abusive and deceptive financial practices. One way CFPB accomplishes this is by the CFPB using the CFPB consumer complaint process to identify consumer harm, possible discrimination or such consequential trends in the financial marketplace. In a similar fashion, the CFPB's Office of Civil Rights (OCR), which manages the CFPB's equal employment opportunity (EEO) program, focuses on proactive prevention of discrimination and conflicts within the CFPB, as well as providing a neutral and impartial EEO complaint process for CFPB employees and applicants. The proactive prevention work includes OCR analyzing all CFPB workforce data for trends, including disputes that may or may not rise to the level of unlawful discrimination. The trend analysis may inspire changes that have a positive impact on the culture and operations of the workforce including changes to policies, practices, or procedures, or new or amended trainings, policies, or tools to better support applicants, employees or supervisors. In addition to analyzing the data underlying this report for trends, my office also works to proactively prevent discrimination by analyzing a broader set of CFPB-wide data and anecdotal information to identify triggers or red flags, which could be barriers to equal employment opportunity. This barrier analysis work allows OCR to work with stakeholders at the CFPB to continually improve our workplace. Additional information can be found in the [CFPB's Equal Employment Opportunity Program Status Report](#).

Serving as a leader in a workplace where everyone is valued, everyone feels heard, and everyone feels part of the team, matters to me. Providing managers and employees with tools to succeed and ensuring this is a workplace free of discrimination, retaliation and harassment is of the utmost importance. I remain committed to looking for ways we can resolve conflict at the lowest level possible and to upholding a neutral EEO complaint process. As always, if you feel that you have experienced discrimination at the CFPB, please do not hesitate to reach out to the Office of Civil Rights.

From Fiscal Year (FY) 2021, here are some accomplishments I would like to highlight:

- The CFPB has been highlighted for many of its best practices in its EEO Program, including its EEO Complaint Process work, and for its work for equality for LGBTQ+ employees.
- The CFPB improved its Alternative Dispute Resolution (ADR) participation in the informal EEO process from 20.7% in FY 2020 to 65% in FY 2021, which exceeds the Equal Employment Opportunity Commission (EEOC) goal of 50%. Additionally, the CFPB's Conflict Coaching Program was utilized to resolve conflicts at the earliest stage.
- The People Action Planning Working Group (PAPWG) is a cross-agency workgroup focused on the people strategy of the CFPB and helping to ensure progress and closure on barrier analysis action items for Black/Hispanic employees and applicants as well as Persons with a Disability. The Office of Civil Rights will continue its work to identify barriers that may be impacting groups of employees, and if barriers are found, will work with the PAPWG to implement action items to remove those barriers to ensure this is the workplace we all want to work in.
- The OCR has developed and offered numerous trainings to CFPB employees to help ensure a workplace free of discrimination, including trainings on EEO laws, harassment and retaliation, microaggressions, the EEO complaint process, ADR and conflict resolution, LGBTQ+ cultural competency and reasonable and religious accommodations. Similarly, the Office of Minority and Women Inclusion (OMWI) began rolling out a new offering of diversity and inclusion training tailored to supervisory status, which will continue into FY 2022.

With this, I present the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) Annual Report for FY 2021 for the CFPB. I look forward to everything we will accomplish together in FY 2022.

Sincerely,

A handwritten signature in blue ink that reads "Melissa Brand". The signature is written in a cursive, flowing style.

Melissa Brand

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1. Purpose of report

Congress passed the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 – the “No FEAR Act” – to hold Federal agencies more accountable for violations of antidiscrimination and whistleblower protection laws.¹ 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.”²

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,³ the Committee on Government Reform of the House of Representatives,⁴ 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.⁵ 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.⁶

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;
- Judgment Fund reimbursements and adjustments to agency budgets to meet reimbursement requirements;

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

² Pub. L. No. 107-174, § 101(7).

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

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

⁵ Pub. L. No. 107-174, § 203(a).

⁶ 5 C.F.R. § 724.302(c)(8).

- 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.⁷

The Consumer Financial Protection Bureau (CFPB) 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 CFPB’s most recent No FEAR Act Notice, and quarterly data – can be accessed from the homepage of the CFPB’s website (www.consumerfinance.gov), or directly at <https://www.consumerfinance.gov/office-civil-rights/no-fear-act/>.

⁷ 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.⁸ Under the Consumer Financial Protection Act, the CFPB “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.”⁹

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.¹⁰

Under the Consumer Financial Protection Act of 2010, the primary functions of the CFPB are (1) conducting financial education programs; (2) collecting, investigating, and responding to consumer complaints; (3) collecting, researching, monitoring, and publishing information relevant to the functioning of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets; (4) supervising covered persons for compliance with Federal consumer financial law, and taking appropriate enforcement action to address violations of Federal consumer financial law; (5) issuing rules, orders, and guidance

⁸ 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)).

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

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

implementing Federal consumer financial law; and (6) performing such support activities as may be necessary or useful to facilitate the other functions of the CFPB.¹¹

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 CFPB is an Executive agency (as defined in 5 U.S.C. § 105) that is an independent Bureau of the Federal Reserve System.¹² CFPB officially began operations on July 21, 2011. A current CFPB organizational chart is available on the CFPB's public website at <https://www.consumerfinance.gov/about-us/the-bureau/bureau-structure>.

As of the end of FY 2021¹³, the CFPB consisted of 1593 federal employees (permanent and temporary).

2.2 CFPB's EEO Program

CFPB has an Office of Equal Opportunity & Fairness (OEOF), which is housed in the Office of the Director.

OEOF is comprised of four discrete program components:

- The Office of Civil Rights (OCR)¹⁴ 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

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

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

¹³ October 1, 2020 through September 30, 2021.

¹⁴ Although a component of OEOF, OCR is led by the OCR Director who reports to the Bureau Director per 29 C.F.R. § 1614.102(b)(4).

C.F.R. Part 1614 (Part 1614),¹⁵ as well as EEOC Management Directives 110 (MD-110) and MD-715.¹⁶ OCR, the CFPB’s Equal Employment Opportunity (EEO) office, has operated since February 2013.¹⁷ The OCR Director reports to the CFPB Director.

- The Office of Minority and Women Inclusion (OMWI),¹⁸ required under the Dodd-Frank Act, is responsible for all matters relating to diversity and inclusion at the CFPB and among the CFPB’s contractors and regulated entities.¹⁹ The OMWI Director reports to the CFPB Director.
- The Disability and Accessibility Program Section (DAPS) coordinates the CFPB’s responsibilities under the Rehabilitation Act of 1973; and
- The Office of Fair Lending and Equal Opportunity (OFLEO), required under the Dodd-Frank Act,²⁰ leads the CFPB’s effort to ensure fair, equitable, nondiscriminatory access to credit for both individuals and communities.

OCR, as the CFPB’s EEO office, safeguards employment-related civil rights throughout the Agency. Given this legal mandate, OCR champions CFPB efforts to foster a fair and equitable workplace – one where employment decisions are based on individual merit, and where everyone has an equal chance to succeed as far as their talents will take them.

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

CFPB’s Office of Civil Rights (OCR)	
Mission	To support the CFPB in complying with civil rights laws and in applying best practices to achieve equal opportunity in the workplace.

¹⁵ 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.

¹⁶ See EEOC Management Directive 110 for 29 C.F.R. Part 1614 (Aug. 5, 2015) (MD-110), available at <https://www.eeoc.gov/federal/directives/md110.cfm>.

¹⁷ Prior to this, the Department of Treasury processed EEO complaints while the Bureau was being stood up.

¹⁸ Although a component of OEOF, OMWI is led by the OMWI Director who reports to the Bureau Director per the Dodd-Frank Act, Section 342 (b)(1).

¹⁹ See 12 U.S.C. §§ 5452(a)(1)(B), (b)(2)(A).

²⁰ See 12 U.S.C. § 5493(c)(2)(A).

CFPB's Office of Civil Rights (OCR)

Vision	The CFPB serves as a model, fair, and discrimination-free workplace – with an engaged and empowered workforce energized to carry out CFPB 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 CFPB's everyday business by:

- Proactively identifying and removing potential physical, institutional, or attitudinal barriers to EEO within the CFPB;
- Helping to de-escalate and resolve specific workplace conflicts, including through robust alternative dispute prevention and resolution;
- Contributing subject-matter expertise to aid the CFPB pragmatically with strategic thinking, problem-solving, policy development, and workforce planning;
- Providing a neutral and fair forum (outside the CFPB'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 CFPB leadership, employees and applicants, the CFPB's Workforce Effectiveness Committee (WEC), People Action Planning Working Group (PAPWG), OMWI, DAPS, OHC, the National Treasury Employees Union (NTEU),²¹ the 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 CFPB leadership priorities and implement the Diversity and Inclusion

²¹ NTEU is the exclusive representation of CFPB employees.

(D&I) and EEO aspects of the CFPB’s five-year Strategic Plan for FY 2018-2022,²² and also CFPB’s Diversity and Inclusion Strategic Plan for 2019-2022 (updated in July 2019).²³ OMWI is leading CFPB stakeholders drafting the new Diversity, Equity, Inclusion and Accessibility Strategic Plan which will contain strategic goals and actions related to diversity, inclusion, racial and economic equity, and accessibility for the entire CFPB and relate directly to the CFPB’s overall Strategic Plan. OCR serves as a partner in this CFPB-wide effort. Together, these plans provide the strategic framework for driving the Agency’s approach to EEO, DEIA, and affirmative employment (including barrier-analysis efforts) under MD-715.

The OCR Director is an Assistant Director of CFPB and reports directly to the CFPB Director on all issues related to the CFPB’s EEO Program. The CFPB Director provides direction, feedback, and coaching, as needed, to the OCR Assistant Director. Further, the CFPB Director is responsible for other CFPB supervisory functions including serving as the final approving official for mid-year and annual performance evaluations for the OCR Assistant Director, assigning work to the OCR Assistant Director, and approving the OCR operating budget and staffing to effectively operate a model EEO program. The OCR Assistant Director acts with the greatest degree of independence and is the final decisionmaker over EEO complaint matters. The reporting structure of the OCR Director was compliant with the Elijah E. Cummings Federal Employee Anti-Discrimination Act of 2020²⁴ during FY 2021.

The OEOF Associate Director also reports directly to the CFPB Director. 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 Section (DAPS) and any involvement in disability reasonable accommodation requests. This mitigates actual and perceived conflicts between OCR and the OEOF Associate Director, between the DAPS and the OEOF Associate Director, and between OCR and the DAPS. This firewall was memorialized in a memorandum signed by the CFPB 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

²² This five-year Agency-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.

²³ 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/>.

²⁴ 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.

extensive experience in civil rights, labor and employment laws, conflict management, investigative techniques, workforce data analyses, 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. On November 22, 2021, the OCR Director, presented on behalf of the CFPB at the White House Domestic Policy Council’s (DPC) Diversity, Equity, Inclusion and Accessibility (DEIA) initiative webinar titled “Promising Practices from Agencies.” The presentation highlighted the outstanding work the CFPB has done to promote LGBTQ+ equity and inclusion within the CFPB. The CFPB was recommended to DPC by the EEOC, who noted that the CFPB has a model EEO Program. In December 2021, the Office of Personnel Management (OPM) said the CFPB is ahead of other agencies with regard to LGBTQ+ inclusion, and asked OCR to assist them in developing and implementing government-wide strategies on LGBTQ+ policies and trainings, using the CFPB’s work as a foundation.

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 CFPB’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 CFPB 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 (to include discussions occurring as a result of a request for mediation made through the CFPB’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 (consistent with EEOC guidance and case law setting forth parameters for agency counsel involvement and professional responsibility rules governing attorney conduct²⁵). Other CFPB offices (such as OHC) are similarly firewalled and kept separate as necessary and appropriate to avoid conflicting or competing interests.

OCR staff conducts legal-sufficiency reviews of EEO matters.²⁶ Such reviews include, for example, preparing and issuing “Accept/Dismiss” determinations addressing jurisdiction over,

²⁵ See, e.g., *Annalee D. v. Gen. Servs. Admin.*, EEOC Request No. 2019000778 (Nov. 27, 2019).

²⁶ 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 (“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.”).

and scope of, claims set forth in formal complaints;²⁷ 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 the Agency's overall EEO program, it collaborates as appropriate with OMWI, DAPS, and the CFPB'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 diversity and inclusion standards for the CFPB,²⁸ which is incorporated into CFPB Human Capital Management. Through the PAPWG, OCR, OMWI, DAPS, 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, equity, inclusion, and accessibility (DEIA) programs CFPB-wide. The PAPWG was formed to ensure the CFPB takes a holistic, consistent approach to considering and planning CFPB-wide people-related plans and initiatives, including those statutorily required (e.g., MD-715, barrier analysis and AES). OCR consults as appropriate with DAPS 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.²⁹ 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 trains and advises CFPB managers and supervisors on merit system principles, prohibited personnel practices, and whistleblower protections under applicable civil services laws.

²⁷ 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.

²⁸ The OMWI Director is an Assistant Director and 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 CFPB. *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).

²⁹ *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:³⁰

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

³⁰ 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. In FY 2021, the Bureau had no findings of discrimination and therefore nothing new to report regarding disciplinary action as a result of a finding of discrimination.

- 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);³¹ 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 2021, the CFPB had one civil action pending in the federal court(s) related to one or more of these civil rights laws. The case involved alleged violations of Title VII, the Equal Pay Act and the Rehabilitation Act. The D.C. District Court set a revised scheduling order and discovery is ongoing. There have been no civil actions in which discrimination has been found.

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.³²

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-16.³³

³¹ 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.

³² See <https://www.fiscal.treasury.gov/fsservices/gov/pmt/idgFund/questions.htm>.

³³ See Pub. L. No. 107-174, § 201(b); see also 5 C.F.R. §§ 724.102, 103.

In FY 2021, the CFPB neither made reimbursements to the Judgment Fund nor needed to adjust its budget to comply with No FEAR Act reimbursement requirements.³⁴

3.3 Discipline-related policies and number of employees disciplined

CFPB has promulgated various policies and procedures to advance the CFPB’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 CFPB holds supervisory and management officials accountable for complying with the policies and procedures listed in Table 2 below.

TABLE 2: CFPB POLICIES GOVERNING EEO AND PERSONNEL ISSUES

CFPB policies governing EEO, D&I, and personnel Issues
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

³⁴ See Pub. L. No. 111-203, § 1017.

CFPB policies governing EEO, D&I, and personnel Issues

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 CFPB 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 [CFPB] 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 CFPB “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 CFPB investigations of alleged violations of laws). The CFPB’s *Disciplinary and Adverse Action Policy* outlines our 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, CFPB policy incorporates the *Douglas* factors for arriving at appropriate penalties for infractions.

The CFPB'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.³⁵

The purpose of the revised Policy and Procedures for Addressing Misconduct 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

³⁵ See EEOC Guidance, *Model EEO Programs Must Have an Effective Anti-Harassment Program*, available at https://www.eeoc.gov/federal/model_eo_programs.cfm.

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 CFPB's Anti-Harassment Policy
- Violation of Federal regulation, policy or statute, including the criminal conflict of interest statutes and the Standards of Conduct

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 CFPB requires all employees to follow CFPB Ethics Regulations. Those ethics regulations in turn require all CFPB employees to abide by the Standards of Ethical Conduct for Employees of the Executive Branch.³⁶ 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.³⁷ Employees are notified of this ethical requirement in mandatory ethics training, via posters, and through the CFPB's intranet.

In addition, the CFPB's Part 1614 complaints process, administered by OCR, safeguards employees' civil rights and provides appropriate relief for statutory violations.³⁸ In FY 2021,

³⁶ See 5 C.F.R. § 9401.101(b).

³⁷ See 5 C.F.R. § 2635.101(b)(13).

³⁸ 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).

OCR issued no findings of discrimination. During the fiscal year, management initiated formal disciplinary action for two individuals as defined in 5 C.F.R. § 724.102³⁹ in connection with cases pending or resolved in U.S. district court or for violating CFPB policies related to conduct that is inconsistent with whistleblower protection laws.⁴⁰ In addition, the CFPB sanctioned one employee with a counseling for misconduct that did not rise to the level of unlawful harassment. When there are findings of discrimination, OCR encourages CFPB officials to impose the maximum discipline supportable under the law and facts as relevant under the circumstances.⁴¹ 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.⁴² This analysis is provided below.

Trends and causal analysis

Pending Complaints

At the end of FY 2021, the CFPB had seven formal EEO complaints from seven complainants pending. As of the end of FY 2021, there were zero formal EEO complaints filed in previous fiscal years (FY 2020 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 2021, there were zero formal EEO complaints pending in the Final Agency Action phase. Seven complaints were pending at the EEOC hearing phase, compared to five in FY 2020 and

³⁹ 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.

⁴⁰ See 5 C.F.R. §§ 724.302(a)(5), (a)(6).

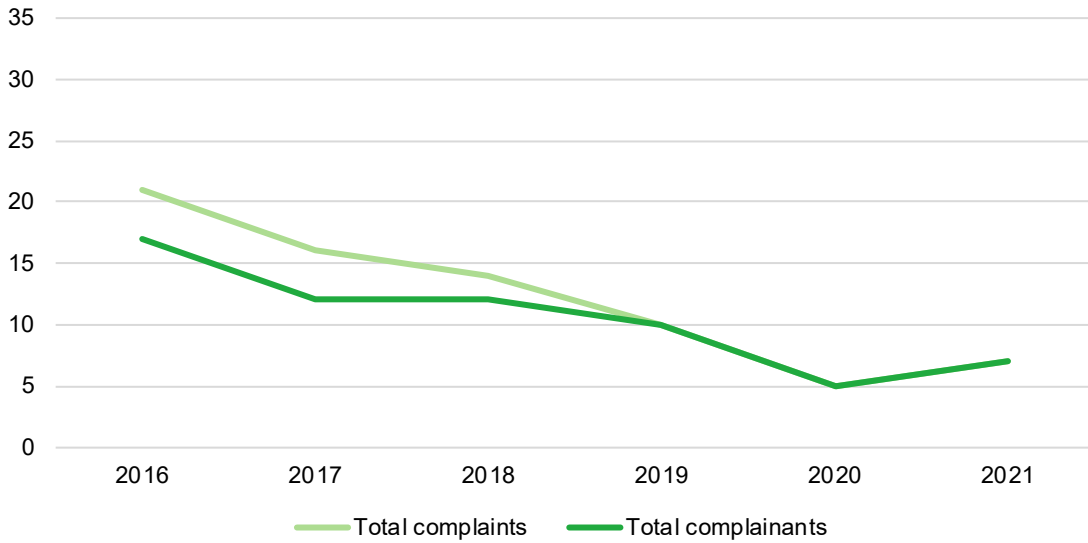
⁴¹ See 29 C.F.R. § 1614.102(a)(6) (providing that, in supporting its EEO program, agencies shall “[t]ake appropriate disciplinary action against employees who engage in discriminatory practices”).

⁴² See Pub. L. No. 107-174, Section 203(a)(7); see also 5 C.F.R. § 724.302(a)(7).

nine in FY 2019. Three complaints were pending at the EEOC appeal phase, compared to seven in FY 2020 and seven in FY 2019.⁴³

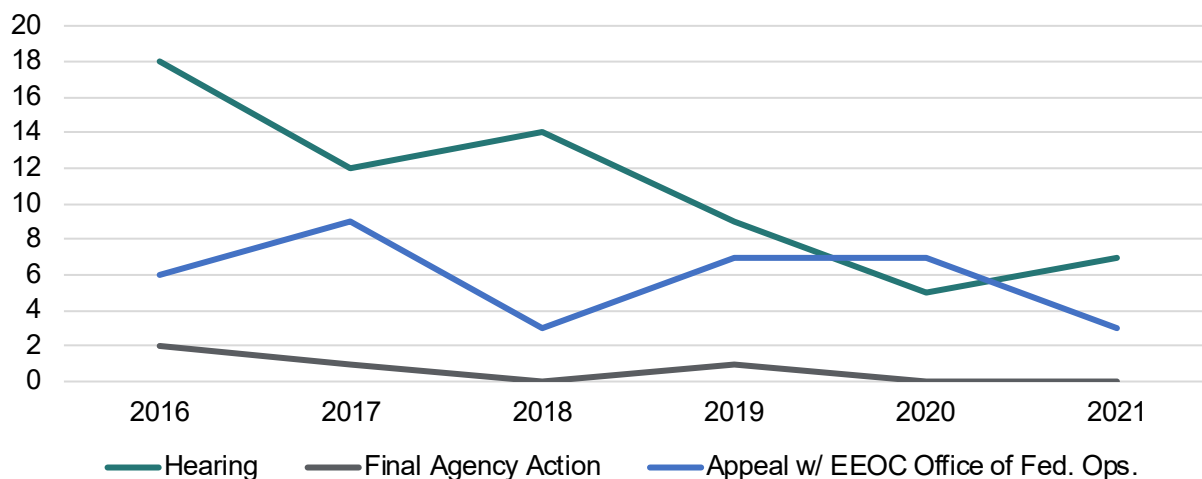
Figure 1 and Figure 2 present this data and related data for other previous fiscal years.

FIGURE 1: PENDING COMPLAINTS AND INDIVIDUALS FILING COMPLAINTS FY 2016 – FY 2021



⁴³ Hearings and appeal stages of the Part 1614 EEO complaint process are managed by the EEOC and not within the control of OCR. 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: PENDING COMPLAINT STATUSES⁴⁴ FY 2016 – FY 2021



Total New Complaint Filings and Number of Complainants

During FY 2021, the CFPB experienced a slight increase in the number of formal EEO complaints filed compared with FY 2020 (from 18 to 19). The 16 complainants who filed formal complaints in FY 2021 represent 1.00 percent of CFPB’s total workforce of 1,593 individuals.⁴⁵ This represents a decrease of 0.13 percent compared to FY 2020, when the ratio (of 17 complainants as a percentage of the total workforce of 1,503 individuals) was 1.13 percent.

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

	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
CFPB Formal EEO Complaints	19 ⁴⁶	5	21 ⁴⁷	17 ⁴⁸	18	19

⁴⁴ At the end of FY 2016 through FY 2021, there were zero pending complaints at the Investigation stage and zero pending complaints at the ROI issued, pending complainant’s action stage.

⁴⁵ Total workforce encompasses employees on permanent and temporary appointments, including interns (if any).

⁴⁶ 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.

⁴⁷ 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.

⁴⁸ 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 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
CFPB Complainants	18	5	19	14	17	16
CFPB Total Workforce ⁴⁹	1652	1643	1502	1424	1503	1593
CFPB Formal Complaints as Percentage of Total Workforce	1.15	0.30	1.40	1.19	1.20	1.19
CFPB Complainants as Percentage of Total Workforce	1.09	0.30	1.26	0.98	1.13	1.00
All Similarly Sized (Medium- Size) ⁵⁰ Agencies (Complainants as Percentage of Total Workforce)	0.60	0.54	0.55	0.50	Not yet Reported	Not yet Reported
Government-wide (Complainants as Percentage of Total Workforce) ⁵¹	0.54	0.53	0.52	0.48	Not yet Reported	Not yet Reported

Figure 3 presents two graphs showing trends in informal and formal complaint activity from FY 2016 through FY 2021, 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 CFPB’s workforce over the same period.

⁴⁹ 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.

⁵⁰ For this purpose, EEOC classifies “medium” agencies as those with 1,000 to 14,999 employees.

⁵¹ 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 3: CFPB INFORMAL AND FORMAL EEO COMPLAINT ACTIVITY AND TOTAL WORKFORCE
FY 2016 - FY 2021

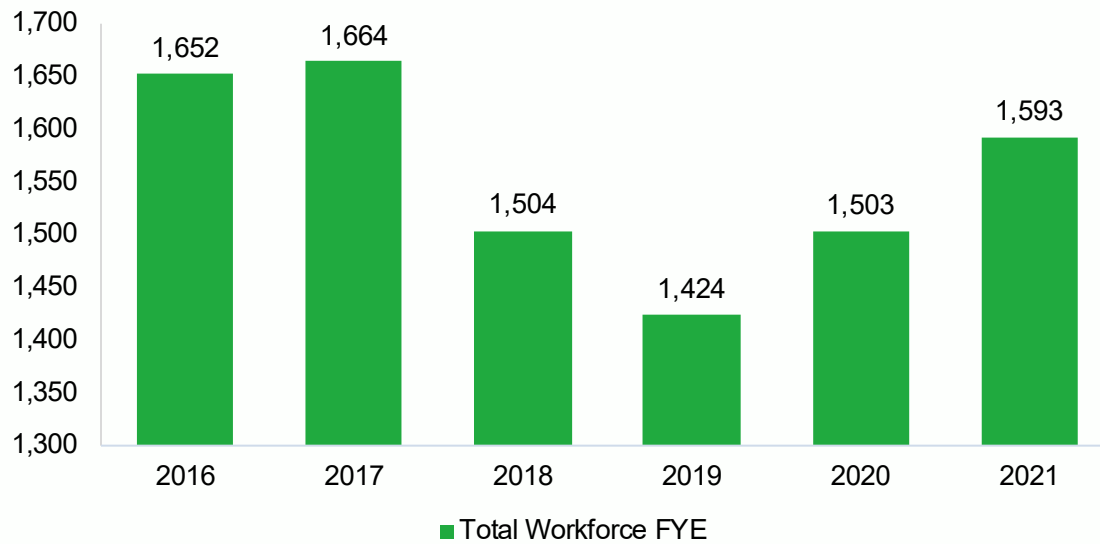
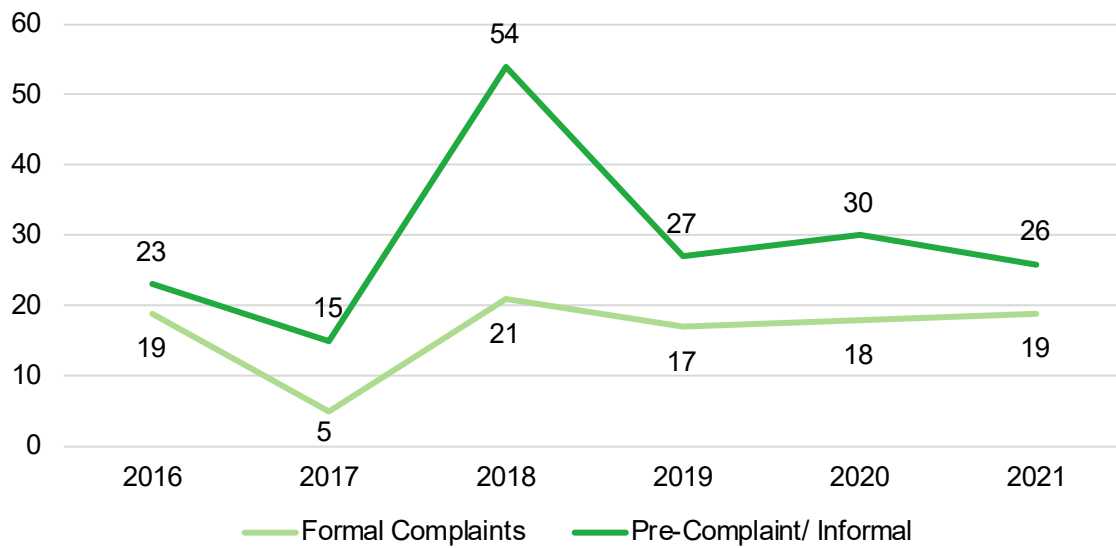
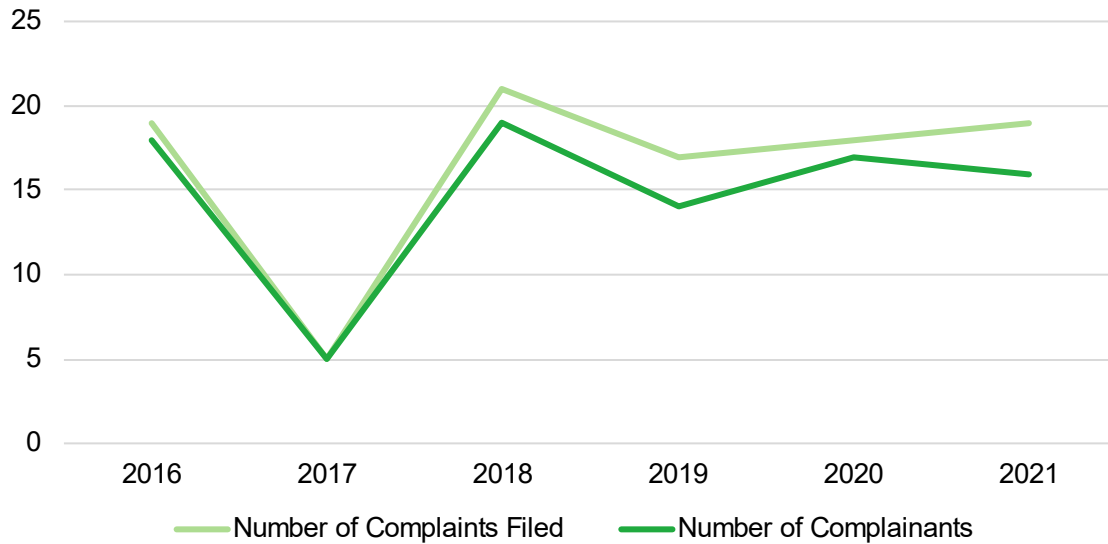


Figure 4 provides a graphical representation of formal EEO complaint activity and individual complainant figures since FY 2016.

FIGURE 4: CFPB FORMAL EEO COMPLAINT ACTIVITY FY 2016 – FY 2021



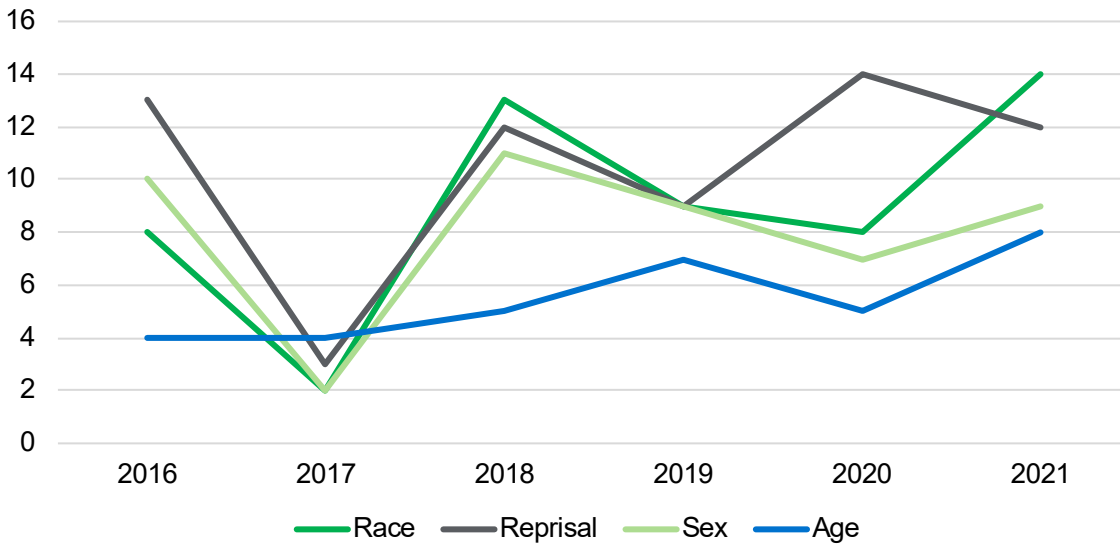
Bases and Issues

In FY 2021, the most frequently cited bases of discrimination in the 19 formal EEO complaints filed were Race (14), Reprisal (12), Sex (9) and Age (8).⁵² In FY 2020, the most common bases alleged in the 18 formal EEO complaints filed were Reprisal (14), Race (8), Sex (7), and Disability (6). The other bases alleged in FY 2021 formal EEO complaints are detailed in Appendix D, 1.1.

⁵² Although there were 19 formal complaints filed in FY 2021, there are more than 19 total bases of discrimination alleged because a complainant may (and often does) assert more than one basis per complaint.

Figure 5 presents frequencies of bases appearing in the top three for any year from FY 2016 - FY 2021.

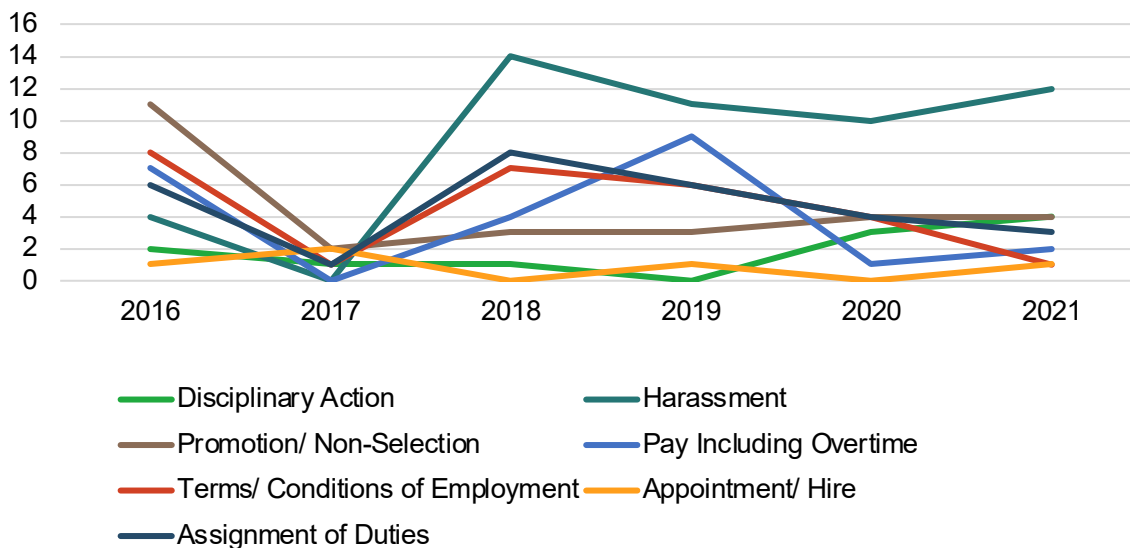
FIGURE 5: FORMAL EEO COMPLAINT ACTIVITY BY BASIS FY 2016 – FY 2021



The most frequently raised issues in formal EEO complaints in FY 2021 were Harassment-Non Sexual (11), Promotion/Non-Selection (4), Disciplinary Action (4), and Assignment of Duties (3). In comparison, FY 2020’s most frequently alleged issues were Harassment-Non Sexual (10), Assignment of Duties (4), Promotion/Non-Selection (4), and Terms/Conditions of Employment (4). The other issues raised in FY 2021 formal EEO complaints are detailed in Appendix D, 1.2.

Figure 6 presents frequencies of issues appearing in the top three for any year from FY 2016 – FY 2021.

FIGURE 6: FORMAL EEO COMPLAINT ACTIVITY BY ISSUE FY 2016 – FY 2021



Bases and issues in CFPB formal EEO complaint filings in FY 2021 were somewhat consistent with government-wide and comparable agency statistics. According to the EEOC, across the Federal government in FY 2019, Reprisal was the most frequently cited basis, followed by Age and Disability (physical).⁵³ Additionally, in FY 2021, Reprisal, Sex, Age, and Disability were among the most common complaint bases among other medium-sized financial regulatory agencies with at least 10 complaints.⁵⁴

The EEOC tables for FY 2019 formal EEO complaint data indicate the most frequently alleged issue in formal complaints government-wide was Non-Sexual Harassment, followed by Disciplinary Action and then Terms/Conditions of Employment.⁵⁵ In FY 2021, Non-Sexual Harassment, Terms/Conditions of Employment, Promotion/Non-Selection, Performance Evaluation/Appraisal and Appointment/Hire were all among the most common issues for medium-sized financial regulatory agencies that have had more than 10 formal EEO complaints filed.

⁵³ See EEOC FY 2019 Table B-8, available at <https://www.eeoc.gov/sites/default/files/2021-07/2019%20Annual%20Report%20Complaints%20Tables.zip>.

⁵⁴ 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-FY21-4th-Quarter.pdf>. SEC data is located at <https://www.sec.gov/eeoinfo/nofeardata.htm>.

⁵⁵ See EEOC FY 2019 Table B-8, available at <https://www.eeoc.gov/sites/default/files/2021-07/2019%20Annual%20Report%20Complaints%20Tables.zip>.

Processing Times

In FY 2021, OCR completed 24 EEO counselings under Part 1614. OCR received a total of 26 new informal complaints/requests for EEO counseling during FY 2021 (not all were completed before the end of FY 2021); this compares with 30 new counseling requests in FY 2020. All counselings completed in FY 2021 qualified as timely under 29 C.F.R. § 1614.105. Nine counselings were timely completed within 30 days; two traditional counselings were completed timely with written extensions of no longer than 60 days. Thirteen counselings were processed through the CFPB's ADR program and were timely completed within 90 days.⁵⁶ In each of these counselings, the CFPB 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.⁵⁷

As noted above, in FY 2021, 19 new formal EEO complaints were filed under Part 1614 and/or Executive Order 11478 (as amended), compared with 18 in FY 2020. In all new formal EEO complaints, CFPB issued acknowledgement letters immediately upon receipt of a formal complaint.⁵⁸ Of the 19 new formal EEO complaints that were filed in FY 2021, the average length of time for issuing the acknowledgement letter was four days. In addition, OCR issued all Acceptance letter/Dismissal decisions within a reasonable time (e.g., 30 days) after receipt of the formal complaint.⁵⁹ Specifically, of the 19 new formal EEO complaints that were filed in FY 2021, the average length of time for issuing the Accept/Dismiss communication was 18 days. In FY 2021, CFPB dismissed five formal complaints; the average days such complaints were pending before dismissal was 24 days.

In FY 2021, OCR conducted all investigations of formal EEO complaints within the regulatory timeframes, decreasing the timeframes from the previous fiscal year in some cases.⁶⁰ The 11 investigations completed during FY 2021 were completed in an average of 219 days. With respect to formal complaint processing, in FY 2021:

- 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

⁵⁶ See 29 C.F.R. §§ 1614.105(d), (f).

⁵⁷ See 29 C.F.R. § 1614.105(b)(1).

⁵⁸ See MD-110, Chapter 5, at Section I.

⁵⁹ Id.

⁶⁰ See 29 C.F.R. § 1614.108(f).

year) was 218.91, a decrease from an average of 253.56 in FY 2020 and lower than the average of 227.24 days in FY 2019;

- The average number of days in investigation for complaints pending for any length of time during the fiscal year where a hearing was requested was 191.50 days, a decrease from an average of 277.33 in FY 2020 and lower than the average of 229.00 days in FY 2019;
- The average number of days in investigation for complaints pending for any length of time during FY 2021 where a hearing was not requested was 276.75, an increase from an average of 241.67 in FY 2020;
- All investigations in FY 2021 were completed within the EEOC's regulatory timeframes;
- OCR 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 11 investigations completed during FY 2021, seven exceeded 180 days due to amendments that extended processing timelines under applicable regulations; in all cases where ROIs were issued beyond 180 days, a "180-day letter" was issued;
- As of the end of FY 2021, 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 2021 was 42.83, which was lower than FY 2020 which was 47.27. All FADS and Final Agency Orders (FAOs) were issued on time. During FY 2021, OCR issued 12 FADs and zero FAOs;
- In FY 2021, OCR issued seven FADs on the merits. The average length of time for issuing these FADs was 48.86 days – under the regulatory requirement of 60 days; and
- 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 timely uploads all documents to FedSEP (the EEOC's online (password-protected) federal-sector EEO portal).

Practical knowledge gained

The CFPB has worked to create a best-in-class EEO program. Over the past six years of enforcing EEO laws and Executive Orders at the CFPB, the OCR Director and staff have gained invaluable insights that have helped improve the CFPB'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-CFPB strategy, by collaborating with CFPB leaders, the diversity-and-inclusion office (OMWI), human capital management (OHC), and related 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 CFPB Director 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 CFPB'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 CFPB 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 equity and 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, conflict coaching program) 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 CFPB 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 CFPB’s EEO program evolves. CFPB’s FY 2021 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 2022 and beyond.⁶¹

⁶¹ When finalized, this program status report will be posted on www.consumerfinance.gov. (MD-715 reports for previous fiscal years also are currently available on this external website.)

In FY 2022 CFPB's OCR intends to:

- Further communicate about the CFPB's barrier analysis efforts. This includes delivering a Barrier Analysis Roadshow to CFPB employees to breakdown terminology and sharing information about ongoing efforts, updating the recently launched Barrier Analysis Wiki page and delivering bite sized information in the Weekly Digest and Manager Minute communication channels with the assistance of the CXO.
- Conduct trigger identification and prioritize triggers to identify the next barrier analysis project.
- Gather information on how to conduct a pilot for voluntarily collecting employee sexual orientation and gender identify (SOGI) data for future analysis.
- Monitor progress on the barrier analysis action items outlined in Parts I and J of the FY 2021 MD-715 Report.
- Collaborate with CFPB stakeholders on the creation of the CFPB's Diversity Equity, Inclusion and Accessibility (DEIA) strategic plan in alignment with Executive Order 14035.
- Achieve an Authority to Operate for the trigger identification software for barrier analysis purposes and ETK EEO for managing EEO complaints in order to begin utilizing both tools.
- Continue to meet the EEOC's goal of 50% for the pre-complaint ADR participation rate.
- Continue promoting the CFPB's Conflict Coaching Program to de-escalate workplace conflict.
- Finalize and share the three short, "just-in-time" videos for participating in the EEO complaints process. One video is intended for the EEO counselee or complainant, the second video is for the person who has been implicated in an EEO case, and the third video is for a person who has been identified as a witness in an EEO case.
- Work with OHC and our third-party service provider to collect interview data in USASTaffing. This is the applicant system the CFPB switched to during FY 2021.
- Ensure timely issuance of the annual EEO policy statements by the newly confirmed CFPB Director.

More generally, the CFPB will focus on the following objectives during FY 2022:

- 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 CFPB’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 EEOC’s MD-110;
- Maintaining accuracy and efficiency of EEO complaint data monitoring, tracking, and reporting through continued use of iComplaints (until the migration to Entellitrak is complete) and continued enforcement of robust internal controls related to data tracking and monitoring;
- Ensuring continued compliance with the Elijah E. Cummings Federal Employment Discrimination Act of 2020;
- 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 CFPB 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 CFPB 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, equity, inclusion, and accessibility;
- 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;
- Increase the usage of the Conflict Coaching Program to resolve conflicts at the earliest stage and to increase CFPB-wide proficiency in conflict resolution tools;
- Cultivating an inclusive work environment, including by participating in WEC efforts, the PAPWG efforts, and supporting the implementation of ERGs, DICE, etc.; and
- Incorporating EEO best practices gained through the CFPB'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.⁶²

Each year, all CFPB employees must take a one-hour, web-based training on the No FEAR Act. Approximately 96.4 percent of employees completed this mandatory No FEAR Act training in FY 2021.

During FY 2021, CFPB finished 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, developed one version of an online module for supervisors and a separate version for non-supervisory employees. This training also meets 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. This training will be used

⁶² See Pub. L. No. 107-174, Section 202(c); see also 5 C.F.R. § 724.203.

during FY 2022 for the first time. For FY 2021, the CFPB continued to use the No FEAR Act module available in the CFPB’s learning management system.

Throughout FY 2021, OCR, in partnership with other CFPB offices such as OHC and the Legal Division, worked to ensure CFPB 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 CFPB 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*.⁶³ The Legal Division, OCR, OHC and OMWI also continued to share 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 that was created the previous fiscal year.

TABLE 4: MEDIA USED TO DISTRIBUTE EEO INFORMATION TO CFPB EMPLOYEES

Media Used to Distribute EEO Information to CFPB Employees
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
Monthly email messages to the entire workforce from the OMWI Director
Annual statements from the CFPB Acting Director Uejio on the No FEAR Act and on the CFPB’s EEO Policy and Anti-Harassment Policy, provided in email to the entire workforce, posted on the CFPB’s intranet, distributed in hard copy, and displayed on physical stands throughout CFPB workspaces
Posters placed throughout all Agency 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 CFPB’s intranet
A brochure on Alternative Dispute Resolution and CFPB’s ADR Program provided electronically during the pandemic as well as posted on the CFPB’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)

⁶³ This guidance is available at http://www.eeoc.gov/federal/preserving_access.cfm.

Media Used to Distribute EEO Information to CFPB Employees

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 CFPB’s intranet

“EEO Tip of the Week” and “ADR Tip of the Month” feature on the homepage of the CFPB’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 one-day manager EEO training led by the OCR team; 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., Cultural competence; Emotional Intelligence in Diverse Settings; Microaggressions; etc.)

OCR “Top Ten EEO Tips” webinars and OCR outreach webinars (e.g., Religious Accommodations)

OMWI-led *Learn More/Take Action Dialogue* series open to all employees in a virtual setting (e.g., *Why Black Lives Matter Impacts Everyone*)

OMWI resources on race (e.g., CFPB Race and Equity Resource Guide, Navigation Guide for Difficult Conversations about Race)

Presentations and materials throughout the agency and on the CFPB’s intranet on the 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.

Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020, H.R. 6395, Title XI, Subtitle B (Sections 1131-1138) requires:

SEC. 1135. DATA TO BE POSTED BY EMPLOYING FEDERAL AGENCIES.

In the annual Notification and Federal Employee Antidiscrimination and Retaliation report, with respect to each finding of discrimination, the report must include:

- the date of the finding,
- the affected Federal agency,
- the law violated, and

- whether a decision has been made regarding disciplinary action as a result of the finding.

Further, the report must include data regarding each class action complaint filed against the agency alleging discrimination (including retaliation), including—

- information regarding the date on which each complaint was filed,
- a general summary of the allegations alleged in the complaint,
- an estimate of the total number of plaintiffs joined in the complaint, if known,
- the current status of the complaint, including whether the class has been certified, and
- the case numbers for the civil actions in which discrimination (including retaliation) has been found.

FY 2021 EEO and anti-harassment policy statement

CFPB's latest version is available here, <https://www.consumerfinance.gov/office-civil-rights/eo-policy-and-reports/>.

APPENDIX B:

FY 2021 Notice on the No FEAR Act and whistleblower protection laws/prohibited personnel practices

CFPB's latest version is available here, <https://www.consumerfinance.gov/office-civil-rights/whistleblowers/>.

APPENDIX D:

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, 2021.

- 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	2016	2017	2018	2019	2020	2021
Number of complaints filed	19*	5	21**	17***	18	19
Number of complainants	18	5	19	14	17	16
Repeat filers ⁶⁴	1	0	2	3	1	3

* 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 CFPB processed this complaint pursuant to a policy the Agency 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 complaints filed (in whole or in part) under 29 C.F.R. Part 1614.

⁶⁴ 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	2016	2017	2018	2019	2020	2021
Race	8	2	13	9	8	14
Color	6	1	5	4	5	4
Religion	0	0	2	0	2	1
Reprisal	13	3	12	9	14	12
Sex	10	2	11	9	7	9
Pregnancy (PDA)	2	0	0	0	1	0
National Origin	2	1	0	2	3	3
Equal Pay (EPA)	5	0	0	1	0	1
Age	4	4	5	7	5	8
Disability	4	0	5	4	6	4
Genetic Information	0	0	0	0	0	0
Non-EEO	2	1	2	3	1	0

* 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	2016	2017	2018	2019	2020	2021
Appointment/Hire	1	2	0	1	0	1
Assignment of Duties	6	1	8	6	4	3
Awards	0	0	2	0	0	0
Conversion to Full Time/Permanent Status	2	0	0	1	0	0
Disciplinary Action – Demotion	1	0	0	0	0	0
Disciplinary Action – Reprimand	1	1	0	0	3	2
Disciplinary Action – Suspension	0	0	0	0	0	0
Disciplinary Action – Removal	0	0	1	0	0	2
Disciplinary Action – Other	0	0	0	0	0	0
Duty Hours	0	0	3	4	1	0
Performance Evaluation/Appraisal	7	0	2	1	2	0
Examination/Test	0	0	0	0	0	0
Harassment – Non-Sexual	4	0	12	11	10	11
Harassment – Sexual	0	0	2	0	0	1
Medical Examination	0	0	0	1	0	0
Pay (Including Overtime)	7	0	4	9	1	2
Promotion/Non-Selection	11	2	3	3	4	4
Reassignment – Denied	0	0	0	0	0	0
Reassignment – Directed	1	0	3	1	0	2
Reasonable Accommodation – Disability	3	0	1	4	2	0

Complaints by Issue	2016	2017	2018	2019	2020	2021
Reinstatement	0	0	0	0	0	0
Reasonable Accommodation – Religion	0	0	0	0	0	0
Retirement	0	0	0	0	0	1
Sex Stereotyping	0	0	0	0	0	0
Telework	0	0	0	0	1	0
Termination	1	0	0	1	0	2
Terms/Conditions of Employment	8	1	7	6	4	1
Time and Attendance	3	0	2	3	2	0
Training	3	0	2	0	1	0
Other	0	0	0	0	0	0

2. Complaint processing times

TABLE 8: PROCESSING TIMES FOR COMPLAINTS PENDING (FOR ANY LENGTH OF TIME) DURING FISCAL YEAR

Type of Processing Time	2016	2017	2018	2019	2020	2021
Average number of days in investigation	270.05	238.20	142.86	227.24	253.56	218.91
Average number of days in final action	91.83	60.50	133.00*	39.94	47.27	42.83

* This processing time resulted in part from the CFPB'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 CFPB ultimately issued the FAD in FY 2018.

TABLE 9: PROCESSING TIMES FOR COMPLAINTS PENDING (FOR ANY LENGTH OF TIME) DURING FISCAL YEAR WHERE HEARING WAS REQUESTED

Type of Processing Time	2016	2017	2018	2019	2020	2021
Average number of days in investigation	242.83	240.83	190.33	229.00	277.33	191.50
Average number of days in final action	0.00	35.67	35.00	24.33	44.80	0.00

TABLE 10: PROCESSING TIMES FOR COMPLAINTS PENDING (FOR ANY LENGTH OF TIME) DURING FISCAL YEAR WHERE HEARING WAS NOT REQUESTED

Type of Processing Time	2016	2017	2018	2019	2020	2021
Average number of days in investigation	316.71	243.33	107.25	225.92	241.67	276.75
Average number of days in final action	91.83	85.33	165.67*	49.30	49.33	44.20

* This processing time resulted in part from the CFPB’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 CFPB ultimately issued the FAD in FY 2018.

3. Complaint dismissals and withdrawals

TABLE 11: COMPLAINTS DISMISSED BY AGENCY

Agency Dismissal Information	2016	2017	2018	2019	2020	2021
Total complaints dismissed by agency	1	1	4	4	2	5
Average days pending prior to dismissal	34	21	13	15	21	24

TABLE 12: COMPLAINTS WITHDRAWN BY COMPLAINANTS

Complaints Withdrawn	2016	2017	2018	2019	2020	2021
Total complaints withdrawn by complainants	2	3	0	1	4	3

4. Findings of discrimination

TABLE 13: TOTAL FINAL AGENCY ACTIONS FINDING DISCRIMINATION

Type of Findings	2016	2016	2017	2017	2018	2018	2019	2019	2020	2020	2021	2021
	#	%	#	%	#	%	#	%	#	%	#	%
Total findings	1	100	0	0	1	100	0	0	0	0	0	0
Without hearing	1	100	0	0	1	100	0	0	0	0	0	0
With hearing	0	0	0	0	0	0	0	0	0	0	0	0

4.1 Findings by basis*

TABLE 14: TOTAL FINDINGS OF DISCRIMINATION RENDERED BY BASIS

Basis	2016	2016	2017	2017	2018	2018	2019	2019	2020	2020	2021	2021
	#	%	#	%	#	%	#	%	#	%	#	%
Total findings	1	100	0	0	1	100	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	1	100	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	1	100	0	0	1	100	0	0	0	0	0	0
Genetic Information	0	0	0	0	0	0	0	0	0	0	0	0

Basis	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 15: FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY BASIS

Basis	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %
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 16: FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY BASIS

Basis	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %
Total findings	1	100	0	0	1	100	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

Basis	2016	2016	2017	2017	2018	2018	2019	2019	2020	2020	2021	2021
	#	%	#	%	#	%	#	%	#	%	#	%
Reprisal	1	100	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	1	100	0	0	1	100	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

* 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 17: TOTAL FINDINGS OF DISCRIMINATION RENDERED BY ISSUE

Issue	2016	2016	2017	2017	2018	2018	2019	2019	2020	2020	2021	2021
	#	%	#	%	#	%	#	%	#	%	#	%
Total findings	1	100	0	0	1	100	0	0	0	0	0	0
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	1	100	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
Disciplinary Action – Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Reprimand	0	0	0	0	0	0	0	0	0	0	0	0

Issue	2016	2016	2017	2017	2018	2018	2019	2019	2020	2020	2021	2021
	#	%	#	%	#	%	#	%	#	%	#	%
Disciplinary Action – Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Removal	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/Appraisal	1	100	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment – Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Harassment – Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment – Denied	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment – Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Disability	1	100	0	0	1	100	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

Issue	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %
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 18: FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE

Issue	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %
Total findings	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
Disciplinary Action – Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Removal	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment – Non- Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Harassment – Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0

Issue	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %	2020 #	2020 %	2021 #	2021 %
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment – Denied	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment – Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Disability	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
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 19: FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY ISSUE

Issue	2016	2016	2017	2017	2018	2018	2019	2019	2020	2020	2021	2021
	#	%	#	%	#	%	#	%	#	%	#	%
Total findings	1	100	0	0	1	100	0	0	0	0	0	0
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	1	100	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
Disciplinary Action – Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Removal	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action – Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/Appraisal	1	100	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment – Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Harassment – Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment – Denied	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment – Directed	0	0	0	0	0	0	0	0	0	0	0	0

Issue	2016	2016	2017	2017	2018	2018	2019	2019	2020	2020	2021	2021
	#	%	#	%	#	%	#	%	#	%	#	%
Reasonable Accommodation – Disability	1	100	0	0	1	100	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

5. Pending complaints

TABLE 20: PENDING COMPLAINTS FILED IN PREVIOUS FISCAL YEARS BY STATUS

Pending Complaints and Complainants	2016	2017	2018	2019	2020	2021
Total complaints from previous fiscal years	21	16	14	10	5	7
Total complainants	17	12	12	10	5	7

TABLE 21: PENDING COMPLAINTS FILED IN PREVIOUS FISCAL YEARS BY STATUS

Where in EEO Process Complaints Are Pending	2016	2017	2018	2019	2020	2021
Investigation	0	0	0	0	0	0
ROI issued, pending complainant's action	0	0	0	0	0	0
Hearing	18	12	14	9	5	7
Final Agency Action	2	1	0	1	0	0
Appeal with EEOC Office of Federal Operations	6	9	3	7	7	3

6. Investigation timeframes

TABLE 22: INVESTIGATIONS THAT EXCEED TIME FRAMES

Investigations	2016	2017	2018	2019	2020	2021
Pending complaints where investigations exceed required time frames	0	0	0	0	0	0