

No FEAR Act report for fiscal year (FY) 2019

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



Message from Kathy L. Kraninger

Director of the CFPB

On behalf of the Bureau of Consumer Financial Protection, I am pleased to present the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) Annual Report for Fiscal Year (FY) 2019. The report provides Congress and the public with important information and requirements outlined in the No FEAR Act and the law's implementing regulations. The report also gives me an opportunity to restate the Bureau's commitment to fostering a fair and discrimination-free workplace, and to highlight some of our Equal Employment Opportunity (EEO)-related achievements from the past year.



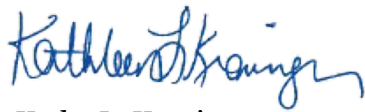
Earlier this month, I re-issued the agency's [EEO and Anti-Harassment Policy Statement](#) and [No FEAR Act Notice](#) to the entire workforce. (You can find these documents in Appendix B to this Report.) At the same time, I also shared a short video featuring myself and other Senior Bureau leaders describing "[What EEO Means at CFPB](#)." This video reaffirms our collective pledge that EEO remains a top priority within our workplace and vital to the Bureau's ability to meet its mission. This shared commitment has driven some notable accomplishments already, including:

- Earning a perfect score from the U.S. Equal Employment Opportunity Commission for FY 2018 on the 150+ metrics the EEOC uses to scrutinize federal agencies' overall EEO program – a rare feat;
- Updating our Bureau-wide [Diversity and Inclusion Strategic Plan](#) to align D&I principles with our mission work;

- Making significant progress in bringing talented new leaders to our executive ranks, from both inside and outside the Bureau. Fifty percent of our executives (not including me) are women. Nearly one-third of our executives are people of color. Our overall workforce is now over 40% people of color, and 50% women;
- Meeting and exceeding our affirmative action goals for employing and retaining individuals with disabilities (over 12% of our workforce) and targeted disabilities (over 2% of our workforce);
- Collaborating across divisions and offices to address any actual or perceived obstacles to EEO experienced by specific demographic groups; and
- Processing all administrative EEO complaints within regulatory timeframes and maintaining a 100% affirmance rate on all Final Agency Decisions appealed to the EEOC. This shows the efficacy, expertise, and neutrality of the Bureau's EEO complaints program, which is designed to help enforce workplace civil rights.

Together, we are making this the phenomenal workplace our dedicated civil servants want – one where everyone has a chance to compete, contribute, and succeed.

Sincerely,



Kathy L. Kraninger

Table of Contents

Message from Kathy L. Kraninger	1
Table of Contents	3
1. Purpose of report	5
2. Background	7
2.1 Mission and Structure of CFPB	7
2.2 CFPB's EEO program.....	9
3. Data and Analysis.....	16
3.1 EEO complaint activity in federal court and status/disposition	16
3.2 Judgment fund reimbursements and budget adjustments.....	18
3.3 Discipline-related policies and number of employees disciplined	18
3.4 Analysis of complaints	25
3.5 No FEAR Act training	43
Appendix A:.....	46
Legislative and regulatory language.....	46
Appendix B:.....	50
FY 2019 EEO and anti-harassment policy statement.....	50
FY 2019 Notice on the No FEAR Act and whistleblower protection laws/prohibited personnel practices.....	57
Appendix C:.....	65
Summary of complaint data	65

1. Complaint activity	66
1.1 Complaints by basis	67
1.2 Complaints by issue	68
2. Complaint processing times	70
3. Complaint dismissals and withdrawals	71
4. Findings of discrimination	72
4.1 Findings by basis	72
4.2 Findings by issue	74
5. Pending complaints	81
6. Investigation timeframes	82

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:

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

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

CFPB's No FEAR Act data – including No FEAR Act annual reports, the Agency's most recent No FEAR Act Notice, and quarterly data – can be accessed from the homepage of the Bureau's website (www.consumerfinance.gov), 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 Bureau “shall seek to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.”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

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)).

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

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

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

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

As of the end of FY 2019, the Bureau consisted of 1422 employees (permanent and temporary).

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)).

2.2 CFPB's EEO program

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

OEOF is comprised of four discrete program components:

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

¹³ 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.

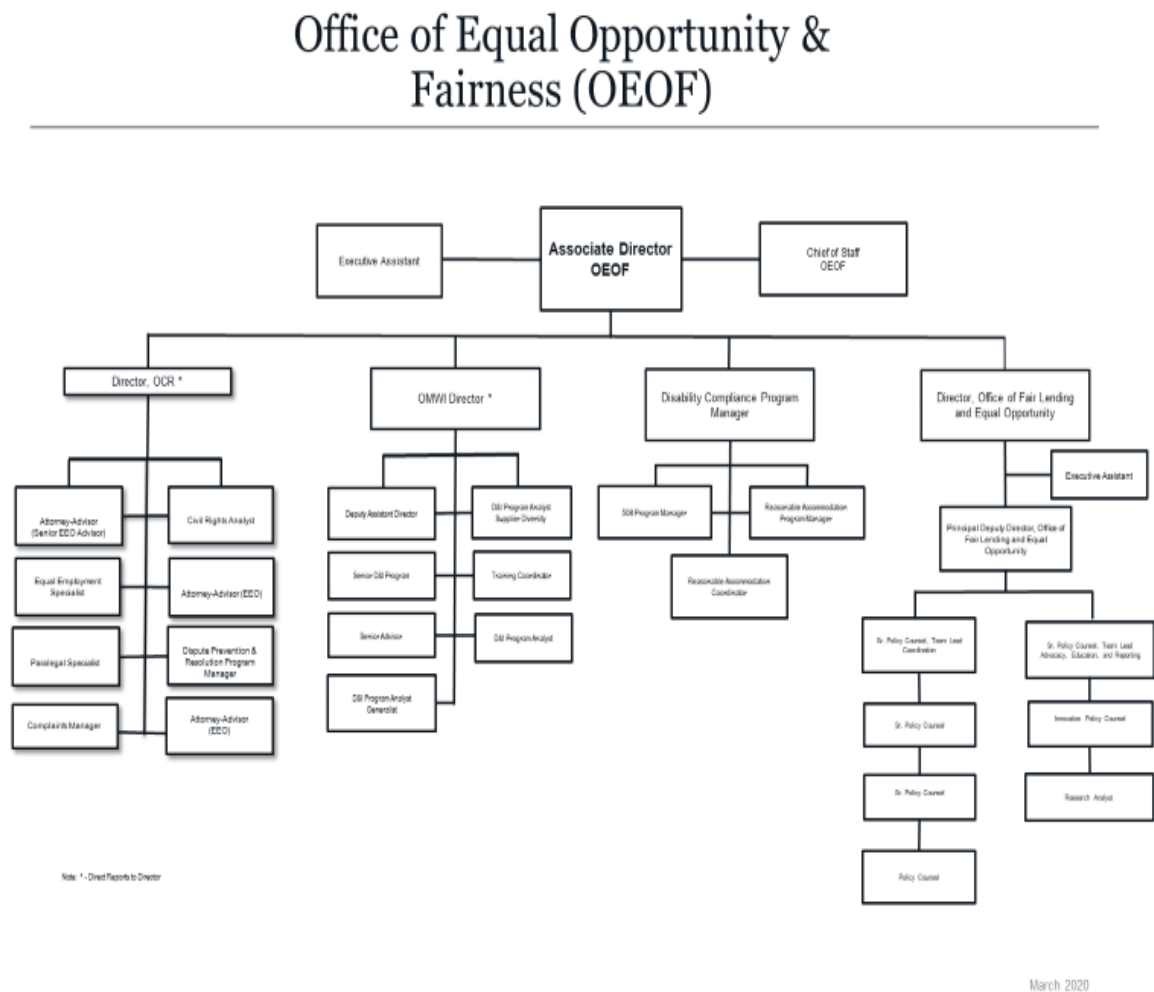
¹⁴ See EEOC Management Directive 110 for 29 C.F.R. Part 1614 (Aug. 5, 2015), available at <https://www.eeoc.gov/federal/directives/md110.cfm>; see also EEOC Management Directive 715 (Oct. 1, 2003), available at <https://www.eeoc.gov/federal/directives/md715.cfm>; Instructions to Federal Agencies for EEO MD-715 (MD-715 Instructions), available at <https://www.eeoc.gov/federal/directives/md715/index.cfm>. Per EEOC's federal-sector regulations at 29 C.F.R. Part 1614, these management directives are binding on all Executive agencies (including CFPB). See 29 C.F.R. § 1614.103(b)(2) ("This part applies to . . . Executive agencies as defined in 5 U.S.C. 105 . . ."); see also 29 C.F.R. § 1614.102(e) ("Agency [EEO] programs *shall* comply with this part and the Management Directives and Bulletins that the Commission issues.") (emphasis added).

¹⁵ See 12 U.S.C. §§ 5452(a)(1)(B), (b)(2)(A).

¹⁶ See 12 U.S.C. § 5493(c)(2)(A).

for both individuals and communities.

FIGURE 1: OEOF ORGANIZATIONAL CHART



OCR, as the Bureau’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 Bureau in complying with civil rights laws and in applying best practices to achieve equal opportunity in the workplace.
Vision	The Bureau as a model, fair, and discrimination-free workplace – with an engaged and empowered workforce energized to carry out Bureau leadership’s priorities.
How OCR works	With independence, integrity, competence, collaboration, and a commitment to quality and excellence.

OCR works to integrate EEO into the Bureau’s everyday business by:

- Proactively identifying and removing potential physical, institutional, or attitudinal barriers to EEO within the Bureau;
- Helping to de-escalate specific workplace conflicts and resolve them, including through robust alternative dispute prevention and resolution;
- Contributing subject-matter expertise to aid the Bureau pragmatically with strategic thinking, problem-solving, policy development, and workforce planning;
- Providing a neutral and fair forum (outside the Bureau’s Legal Division and OHC) for the discussion, investigation, adjudication, and resolution of EEO matters under Part 1614 and related Executive Orders; and
- Requiring CFPB to remedy violations of civil rights laws, including 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 Agency leadership, Bureau employees and applicants, the Bureau’s Workforce Effectiveness Committee (WEC) established during FY 2019, OMWI, DAP, the Bureau’s Office of Human Capital (OHC), the National Treasury Employees Union (NTEU),¹⁷ diversity councils (e.g., the Agency’s staff-level Diversity and Inclusion Council of Employees (DICE)), and Employee Resource Groups (ERGs) to achieve a model workplace. OCR partners with these stakeholders to carry out Bureau leadership priorities and implement the D&I and EEO aspects of the Bureau’s five-year Strategic Plan for FY 2018-2022,¹⁸ and also CFPB’s Diversity and Inclusion Strategic Plan for 2019-2022 (updated in July 2019).¹⁹ Together, these plans provide the strategic framework for driving the Agency’s approach to EEO, D&I, and affirmative employment (including barrier-analysis efforts) under MD-715.

The OCR Director is an Assistant Director of CFPB and, consistent with Part 1614,²⁰ has a dual reporting structure to both the CFPB Director and to the OEOF Associate Director. The OEOF Associate Director 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 head of OEOF and the OCR Director are firewalled from the Disability Accessibility Program and any involvement in disability reasonable accommodation requests. This mitigates actual and perceived conflicts between OCR and the OEOF Director, between the DAP and the OEOF Director, and between OCR and the DAP. This firewall was memorialized in a memorandum signed by the Bureau Chief of Staff on January 31, 2019.

The OCR Director leads a team of diverse professionals, including civil rights attorneys, a human capital expert, a dispute prevention and resolution practitioner, and data and

¹⁷ This is CFPB employees’ chosen labor organization.

¹⁸ 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.

¹⁹ This five-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/>.

²⁰ See 29 C.F.R. § 1614.102(b)(4).

administrative support specialists. The OCR team has significant subject matter expertise and extensive experience in civil rights, labor and employment laws, conflict management, investigative techniques, and federal-sector rules and processes. Five of OCR's eight permanent staff members have worked directly for the EEOC. 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.

To comply with Part 1614 and MD-110 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 Agency's EEO program. For example, the OCR Director exercises full authority to carry out OCR's Part 1614 functions without Legal Division (i.e., General Counsel) involvement. The Legal Division defends the Bureau in EEO matters, and thus is firewalled from all activities within OCR. The Legal Division only participates during adversarial portions of the EEO process (hearings and appeals), during settlement negotiations (to include discussions occurring as a result of a request for mediation made through the Bureau's Alternative Dispute Resolution (ADR) Program), and/or to provide appropriate legal advice or assistance when a manager or supervisor requests it during the course of an EEO investigation (consistent with EEOC guidance and case law setting forth parameters for agency counsel involvement and professional responsibility rules governing attorney conduct²¹). Other Bureau 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.²² Such reviews include, for example, preparing and issuing "Accept/Dismiss" determinations addressing jurisdiction over,

²¹ See, e.g., *Annalee D. v. Gen. Servs. Admin.*, EEOC Request No. 2019000778 (Nov. 27, 2019).

²² Legal resources within OCR make this possible. The Bureau and OCR have adopted the EEOC's recommended best practice. See 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

and scope of, claims set forth in formal complaints;²³ conducting an impartial and appropriate investigation of accepted formal complaints; conducting substantive reviews of the Reports of Investigations (ROIs) to ensure compliance with laws and regulations; and drafting of Final Agency Decisions (FADs) and Final Agency Orders (FAOs) (as required by 29 C.F.R. § 1614.110).

At the same time, while OCR maintains the primary responsibility for many aspects of the Agency's overall EEO program, it collaborates as appropriate with OMWI, DAP, and the Bureau's OHC and Legal Division to ensure fairness and equality under the law for all employees and applicants for employment. Under the Dodd-Frank Act, the OMWI Director must develop certain standards for EEO and diversity at the Bureau,²⁴ which OHC incorporates into CFPB Human Capital Management. OCR, OMWI, DAP, and OHC monitor the impacts and results of these standards, cultivate successful policies and practices to reinforce them, and develop enhancement strategies to strengthen all EEO and diversity and inclusion (D&I) programs Bureau-wide. OCR consults as appropriate with DAP (under the supervision of the Bureau's Disability Compliance Program Manager) and OHC in promoting the recruitment, hiring, development, advancement, and retention of individuals with disabilities and targeted disabilities, as required under the Rehabilitation Act of 1973 and related regulations, including EEOC's disability affirmative action regulations.²⁵ OCR also coordinates on a general basis with OHC on (among other topics) the harassment-prevention program OHC administers. In addition, OCR collaborates as appropriate with the Legal Division, which trains and advises

is for the EEO office to have sufficient internal legal resources.”).

²³ 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.

²⁴ The OMWI Director is an Assistant Director and (like the OCR Director) has dual reporting – to the CFPB Director and to the OEOF Associate Director. *See* 12 U.S.C. § 5452(b)(1). The OMWI Director develops standards for equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of the Bureau, as well as standards to increase participation of minority-owned and women-owned businesses, and assesses the diversity policies and practices of entities regulated by the Bureau. *See* 12 U.S.C. § 5452(b)(2). Under the Dodd-Frank Act, OMWI's responsibilities do not include “enforcement of statutes, regulations, or executive orders pertaining to civil rights, except [that] each [OMWI] Director shall coordinate with the agency administrator, or the designee of the agency administrator, regarding the design and implementation of any remedies resulting from violations of such statutes, regulations, or executive orders.” 12 U.S.C. § 5452(a)(3).

²⁵ *See* 29 U.S.C. § 791 *et seq.*; *see also* 29 C.F.R. § 1614.203.

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

3. Data and Analysis

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

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

3.1 EEO complaint activity in federal court and status/disposition

The laws covered by the No FEAR Act include:

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

- The Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff *et seq.* (genetic information about an individual or individual's family members and reprisal) (GINA);²⁶ 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 2019, the Bureau had three civil actions pending or resolved in federal court(s) related to one or more of these No FEAR Act laws. These cases involved alleged violations of Title VII (two cases), the Equal Pay Act (two cases), and/or the Rehabilitation Act (one case). In one of the cases alleging Title VII violations, the U.S. District Court for the District of Columbia issued summary judgment in favor of the agency; the plaintiff appealed to the U.S. Court of Appeals for the District of Columbia, which affirmed in favor of the agency. In the case alleging Title VII, Equal Pay Act, and Rehabilitation Act violations, the D.C. District Court set a scheduling order and discovery is ongoing. In the case alleging Equal Pay Act violations, the parties settled and the matter is closed.

²⁶ Neither the No FEAR Act (enacted in 2002) nor implementing regulations (finalized and published in the Federal Register in 2006) have been amended to include reference to the Genetic Information Nondiscrimination Act of 2008 (GINA). Nonetheless, in the interests of completeness, CFPB will include relevant data here on any federal court cases or EEO complaints alleging violations of GINA. No such cases or complaints have been filed to date.

3.2 Judgment fund reimbursements and budget adjustments

The Judgment Fund is a permanent, indefinite appropriation available to pay final money judgments and awards against the United States. The Judgment Fund Branch in the Bureau of the Fiscal Service of the U.S. Department of the Treasury administers the Judgment Fund.²⁷

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-16.²⁸

In FY 2019, the Bureau neither made reimbursements to the Judgment Fund nor needed to adjust its budget to comply with No FEAR Act reimbursement requirements.²⁹

3.3 Discipline-related policies and number of employees disciplined

CFPB has promulgated various policies and procedures to advance the Bureau's EEO and whistleblower protection programs. These and other personnel-related policies and procedures aid in the proactive prevention of discrimination and increase management and program accountability.

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

²⁷ See <https://www.fiscal.treasury.gov/fsservices/gov/pmt/jdgFund/questions.htm>.

²⁸ See Pub. L. No. 107-174, § 201(b); *see also* 5 C.F.R. §§ 724.102, 103.

²⁹ See Pub. L. No. 111-203, § 1017.

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
Equal Employment Opportunity and Non-Discrimination Policy
Anti-Harassment Policy and Related Procedures
Hiring, Promotion, and Internal Personnel Movements Policy
Attorney Hiring and Promotion Policy
Disability Reasonable Accommodation/Personal Assistance Services Policy, Procedures, and Forms
Standard Operating Procedures Related to Disability Reasonable Accommodation/PAS Requests
Religious Reasonable Accommodation Policy and Related 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 December 9, 2017, has 47 articles, including an article addressing Equal Employment Opportunity, which affirms the parties' commitment to the principles of EEO and workplace fairness. The CBA also includes articles on Performance Management, Probationary/Trial Period Employees, Unacceptable Performance, Adverse Actions, Disciplinary Actions, and Grievance and Arbitration Procedures.

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

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

The CBA also includes an "Adverse Action" Article for matters potentially appealable to the Merit Systems Protection Board (e.g., suspensions of more than 14 days, reductions in pay, removals, etc.). This Article again expresses support for progressive discipline, but also states that the Bureau "will evaluate each situation warranting adverse action individually and, in instances involving serious offenses, progressive discipline may not be appropriate." 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 agency investigations of alleged violations of laws). The Bureau's *Disciplinary and Adverse Action Policy* outlines CFPB's commitment to:

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

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

This policy also explains that:

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

This policy provides examples of actions deemed unacceptable, and which may result in disciplinary or adverse action, up to and including removal from CFPB. The list includes "Engaging in discrimination, harassment, or other inappropriate conduct." Like the CBA Adverse Action Article, Bureau policy incorporates the *Douglas* factors for arriving at appropriate penalties for infractions.

In FY 2019, OHC in consultation with the Bureau's Legal Division and OCR made updates to the Agency's Anti-Harassment Policy and Related Procedures, which were modeled on the EEOC's own policy/procedures. The Bureau's newly revised anti-harassment program documents meet

all the criteria established in EEOC's federal-sector anti-harassment enforcement guidance.³⁰ The purpose of the Bureau's anti-harassment program:

is to prevent harassing conduct from occurring and to stop any harassing conduct that may occur *before* it rises to the level of unlawful harassment. Th[e] [revised policy] provides examples of harassing conduct, explains the rights and responsibilities of all employees under this Policy, and explains the Bureau's system of accountability for violations of th[e]Policy.

The revised policy and procedures explain that:

harassing conduct may involve a variety of offensive acts and conduct, including physical or sexual assaults or threats; offensive jokes, slurs, epithets, or name calling; intimidation, ridicule, or mockery; insults or put-downs; ostracism; or offensive objects or pictures. The severity and frequency of the conduct will be considered when determining preventive and/or corrective action. More egregious conduct will merit more severe discipline. For example, the use of an epithet, a threat or other intimidation, or a sexual or physical assault will very likely warrant more severe discipline than a first-time inappropriate comment or joke.

In certain circumstances, proportionate preventive and/or corrective action may include counseling. If counseling is determined to be the effective preventative or corrective action, an employee should be counseled for harassing conduct the same as they would be for other unacceptable performance or inappropriate conduct. In these circumstances, after counseling has been imposed, the conduct of the counseled employee will be monitored to ensure that the harassing conduct does not continue.

In other circumstances, proportionate preventive and/or corrective action may require more than counseling. For example, more severe action may be required when the nature of the conduct is such that counseling alone would be ineffective or inappropriate, or where counseling has already been provided and the harassing conduct continued. Such action may include but is not limited to disciplinary action, as called for by the facts of the case and applicable conduct rules. The penalty imposed for harassing conduct will

³⁰ See EEOC Guidance, *Model EEO Programs Must Have an Effective Anti-Harassment Program*, available at https://www.eeoc.gov/federal/model_eeo_programs.cfm.

be selected the same as for any other violation of workplace rules, considering the severity and frequency of the conduct, the response required to end such conduct and prevent it from recurring, the offender's disciplinary/conduct history, and other relevant factors. A proportionate penalty may include reprimand, suspension, demotion, or removal in accordance with Bureau policy and the Collective Bargaining Agreement, as applicable.

Further, all individuals who are involved in carrying out this Policy – including, but not limited to, the alleged harasser, individuals who participate in investigations of alleged harassing conduct, and relevant supervisors and management officials – are prohibited from engaging in retaliation against the subject/object (and the person reporting the alleged harassing conduct, if different from the subject/object) or anyone else who has opposed harassing conduct, reported harassing conduct, or participated or assisted in any inquiry, investigation, lawsuit, or other proceeding concerning harassing conduct. According to the Policy:

Any employee who engages in such retaliation is subject to disciplinary action, as appropriate. Management will be held accountable for preventing and promptly stopping and correcting any retaliatory conduct. Retaliation is prohibited under this Policy (and may be unlawful) even if it is not severe or pervasive enough to create a hostile work environment.

The Bureau requires all employees to follow CFPB Ethics Regulations. Those ethics regulations in turn require all Bureau employees to abide by the Standards of Ethical Conduct for Employees of the Executive Branch.³¹ 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.³² Employees are notified of this

³¹ See 5 C.F.R. § 9401.101(b).

³² See 5 C.F.R. § 2635.101(b)(13).

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

In addition, the Bureau's Part 1614 complaints process (administered by OCR) safeguards employee civil rights and provides appropriate relief for statutory violations.³³ OCR encourages Bureau officials to impose the maximum discipline supportable under the law and facts as relevant under the circumstances.³⁴

The Bureau had no findings of unlawful discrimination in FY 2019. However, when there are findings OCR encourages Bureau officials to impose the appropriate discipline supportable under the law and facts as relevant under the circumstances.³⁵ Even in certain cases where conduct was found not to be unlawful but nonetheless problematic, the OCR Director will recommend particular improvements or corrections, including remedial or disciplinary actions, for managers and supervisors who have failed in their EEO responsibilities.

In FY 2019, no employees received formal disciplinary action as defined in 5 C.F.R. § 724.102³⁶ in connection with cases pending or resolved in U.S. district court or for violating Bureau policies related to conduct that is inconsistent with Federal antidiscrimination and whistleblower protection laws.³⁷

³³ 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).

³⁴ *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").

³⁵ *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").

³⁶ 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.

³⁷ *See* 5 C.F.R. §§ 724.302(a)(5), (a)(6).

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.³⁸ This analysis is provided below.

Trends and causal analysis

Pending Complaints

At the end of FY 2019, the Bureau had 10 formal EEO complaints from 10 complainants pending. (At the end of FY 2018, the Bureau had 17 formal complaints from 15 complainants pending.)

As of the end of FY 2019, there were zero formal EEO complaints filed in previous fiscal years (FY 2018 or prior) remaining in the investigation or Report-of-Investigation (ROI)-issued/Final Agency Decision (FAD) or EEOC hearing election phases. As of the end of FY 2019, there was one formal EEO complaint pending in the Final Agency Action phase. (Zero were pending at the end of FY 2018.) Nine complaints were pending at the EEOC hearing phase, compared to 14 in FY 2018 and 12 in FY 2017. Seven complaints were pending at the EEOC appeal phase, compared to three in FY 2018 and nine in FY 2017.³⁹

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

³⁸ See Pub. L. No. 107-174, Section 203(a)(7); *see also* 5 C.F.R. § 724.302(a)(7).

³⁹ Hearings and appeal stages of the Part 1614 EEO complaint process are managed by the EEOC. If a complainant requests an EEOC hearing the matter becomes adversarial and the Bureau's Legal Division () represents CFPB as a party in the proceeding, including on any administrative appeal filed with EEOC's Office of Federal Operations.

FIGURE 2: PENDING COMPLAINTS AND INDIVIDUALS FILING COMPLAINTS FY 2014 – FY 2019

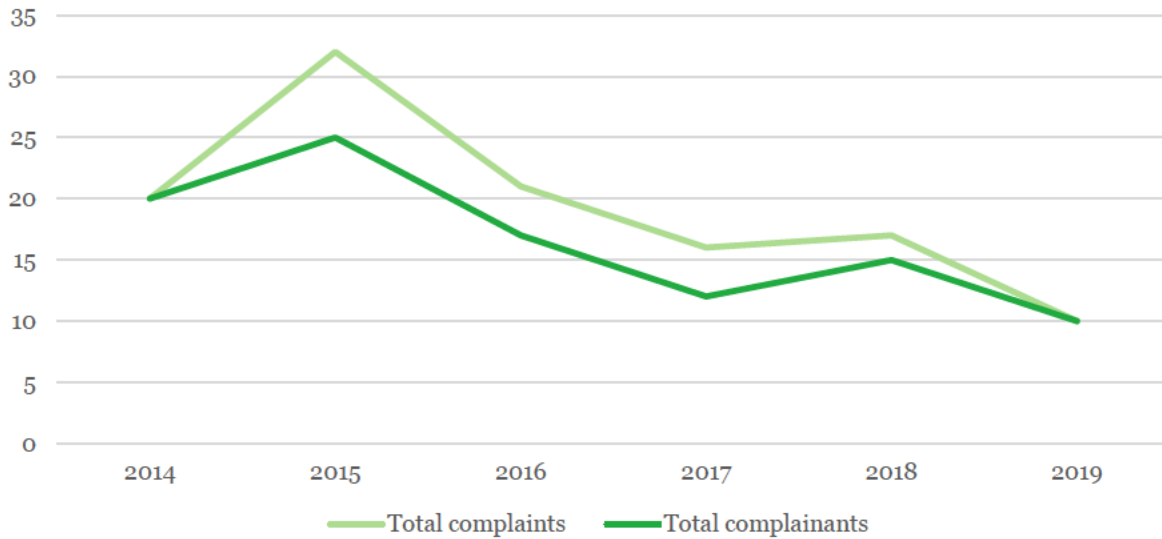
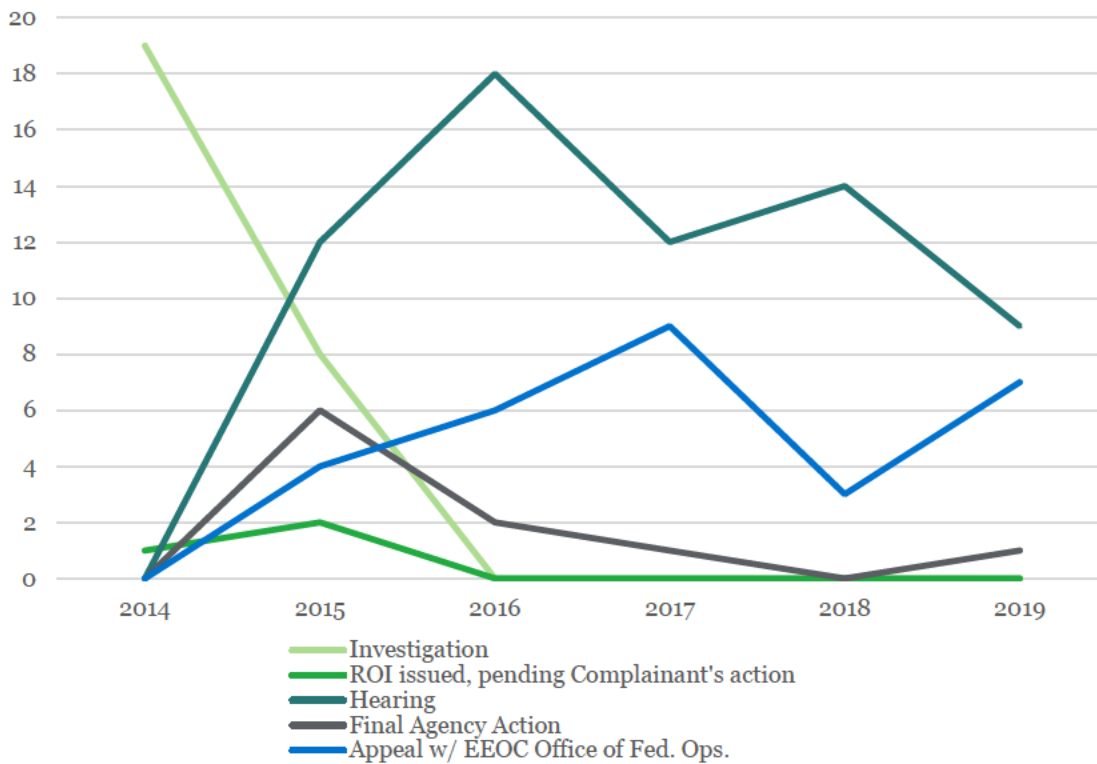


FIGURE 3: PENDING COMPLAINT STATUSES FY 2014 – FY 2019



Total New Complaint Filings and Number of Complainants

During FY 2019, the Bureau experienced a decrease in the number of formal EEO complaints filed compared with FY 2018 (from 21 to 17). The 14 complainants who filed formal complaints in FY 2019 represent 0.98 percent of CFPB's total workforce of 1,422 individuals. This represents a decrease of 0.28 percent compared to FY 2018, when the ratio (of 19 complainants as a percentage of the total workforce of 1,502 individuals) was 1.26 percent.

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

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
CFPB Formal EEO Complaints	25	22 ⁴⁰	19 ⁴¹	5	21 ⁴²	17 ⁴³
CFPB Complainants	24	19	18	5	19	14

⁴⁰ In FY 2015, an individual also filed two notices with the EEOC signaling the individual's intention to file a civil suit against the Bureau under the Age Discrimination in Employment Act of 1967 (ADEA). Such notices of intent to file a civil action under the ADEA are not considered official EEO complaints under 29 C.F.R. Part 1614 and thus are not included in the total of formal EEO complaints filed in FY 2015. See 29 C.F.R. § 1614.201(a) ("As an alternative to filing a complaint under this part, an aggrieved individual may file a civil action in a United States district court under the ADEA against the head of an alleged discriminating agency after giving the [EEOC] not less than 30 days' notice of the intent to file such an action.").

⁴¹ 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 thus equal 16.

⁴² One of these complaints alleged a violation of Executive Order 11478 (as amended) only. The Bureau processed this complaint pursuant to a policy the Agency has established to address such allegations. Thus, in FY 2018 CFPB received 20 new formal complaints filed (in whole or in part) under 29 C.F.R. Part 1614.

⁴³ Two of these reported matters involve alleged violations of Executive Order 11478 (as amended) only. Thus, in FY 2019 BCFP received 15 new formal complaints filed (in whole or in part) under 29 C.F.R. Part 1614.

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
CFPB Total Workforce ⁴⁴	1419	1533	1652	1643	1502	1422
CFPB Formal Complaints as Percentage of Total Workforce	1.75	1.44	1.15	0.30	1.40	1.20
CFPB Complainants as Percentage of Total Workforce	1.68	1.24	1.09	0.30	1.26	0.98
All Similarly Sized (Medium- Size) ⁴⁵ Agencies (Complainants as Percentage of Total Workforce)	0.51	0.56	0.60	0.54	0.55	Not yet Reported
Government-wide (Complainants as Percentage of Total Workforce) ⁴⁶	0.49	0.51	0.54	0.53	0.52	Not yet Reported

Figure 4 presents two graphs showing trends in informal and formal complaint activity from FY 2014 through FY 2019, along with corresponding figures for the total workforce at the end of each fiscal year (FYE). These graphs allow a visual comparison of complaint volume for the past six fiscal years and data on changes in the Bureau's workforce over the same period.

⁴⁴ Workforce numbers for previous fiscal year No FEAR Act reports may differ slightly from corresponding data reported in this FY 2019 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.

⁴⁵ For this purpose, EEOC classifies "medium" agencies as those with 1,000 to 14,999 employees.

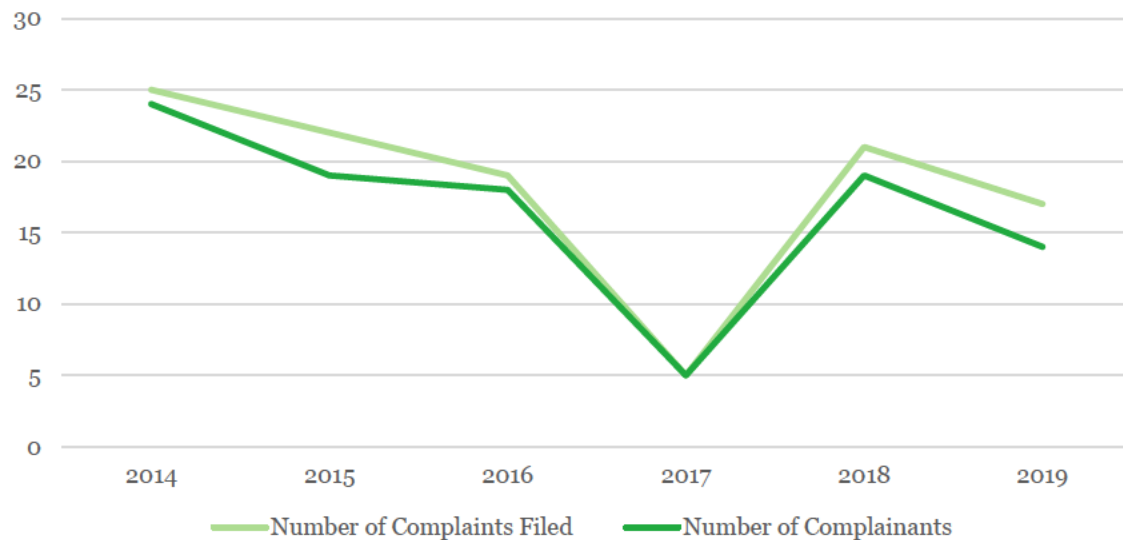
⁴⁶ The EEOC's website contains the most recent available government-wide statistics on this topic. See <https://www.eeoc.gov/federal/reports/tables.cfm>.

FIGURE 4: CFPB INFORMAL AND FORMAL EEO COMPLAINT ACTIVITY AND TOTAL WORKFORCE
FY 2014 - FY 2019



Figure 5 provides a graphical representation of formal EEO complaint activity and individual complainant figures since FY 2014.

FIGURE 5: CFPB FORMAL EEO COMPLAINT ACTIVITY FY 2014 – FY 2019



Bases and Issues

In FY 2019, the most frequently cited bases of discrimination in the 17 formal EEO complaints filed were Race (9), Reprisal (9), Sex (9), and Age (7).⁴⁷ In FY 2018, the most common bases alleged in the 21 formal complaints were Race (13), Reprisal (12), and Sex (11). (Age, Color, and Disability were alleged five times each in FY 2018.)

⁴⁷ Although there were 17 formal complaints filed in FY 2019, there are more than 17 total bases of discrimination alleged because a complainant may (and often does) assert more than one basis per complaint.

Figure 6 presents formal EEO complaints by basis for FY 2019.

FIGURE 6: FORMAL EEO COMPLAINT ACTIVITY BY BASIS FY 2019

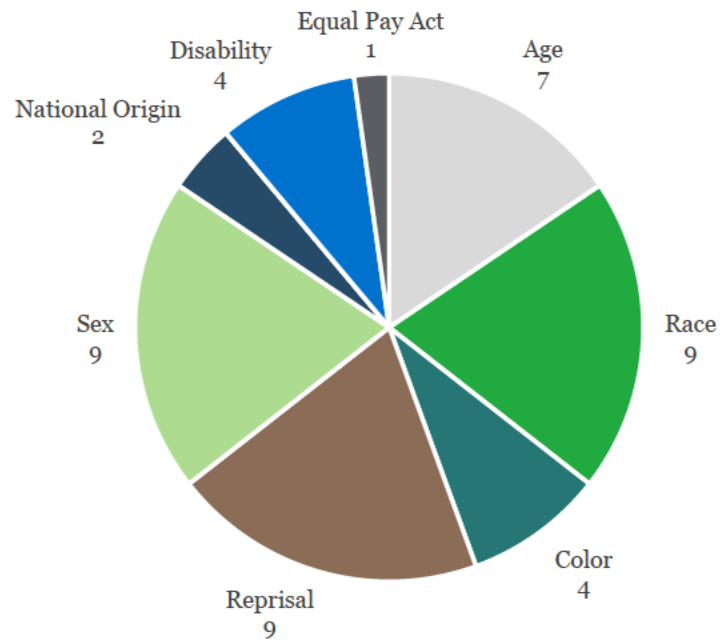
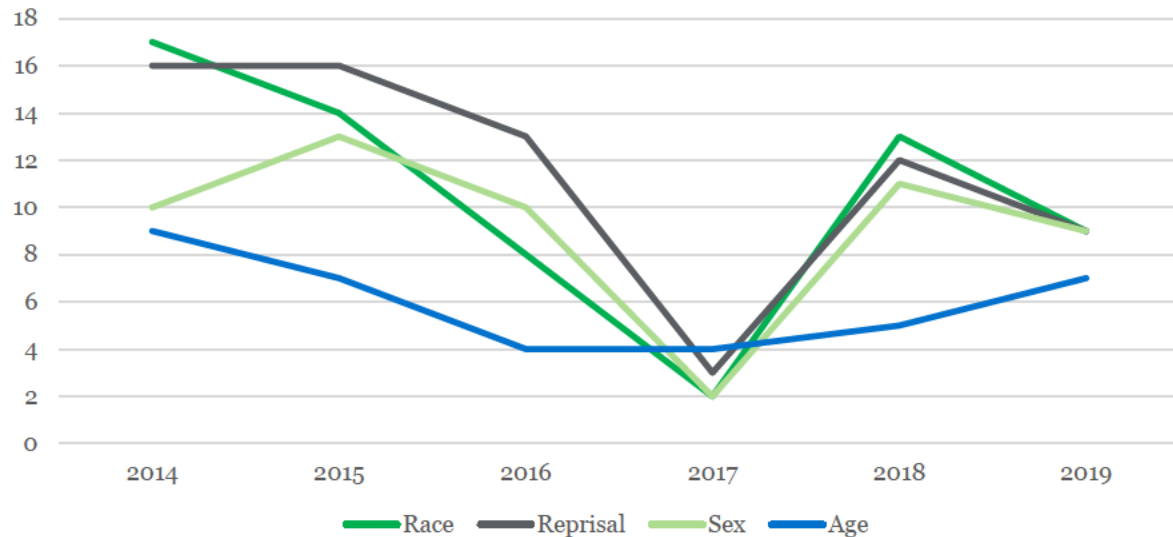


Figure 7 presents frequencies of bases appearing in the top three for any year from FY 2014 - FY 2019.

FIGURE 7: FORMAL EEO COMPLAINT ACTIVITY BY BASIS FY 2014 – FY 2019



The most frequently raised issues in formal EEO complaints in FY 2019 were Harassment-Non Sexual (11), Pay (Including Overtime) (9), Assignment of Duties (6), and Terms/Conditions of Employment (6). In comparison, FY 2018's most frequently alleged issues were Harassment-Non Sexual (12), Assignment of Duties (8), and Terms/Conditions of Employment (7).

Figure 8 presents formal EEO complaints by issue for FY 2019.

FIGURE 8: FORMAL EEO COMPLAINT ACTIVITY BY ISSUE FY 2019

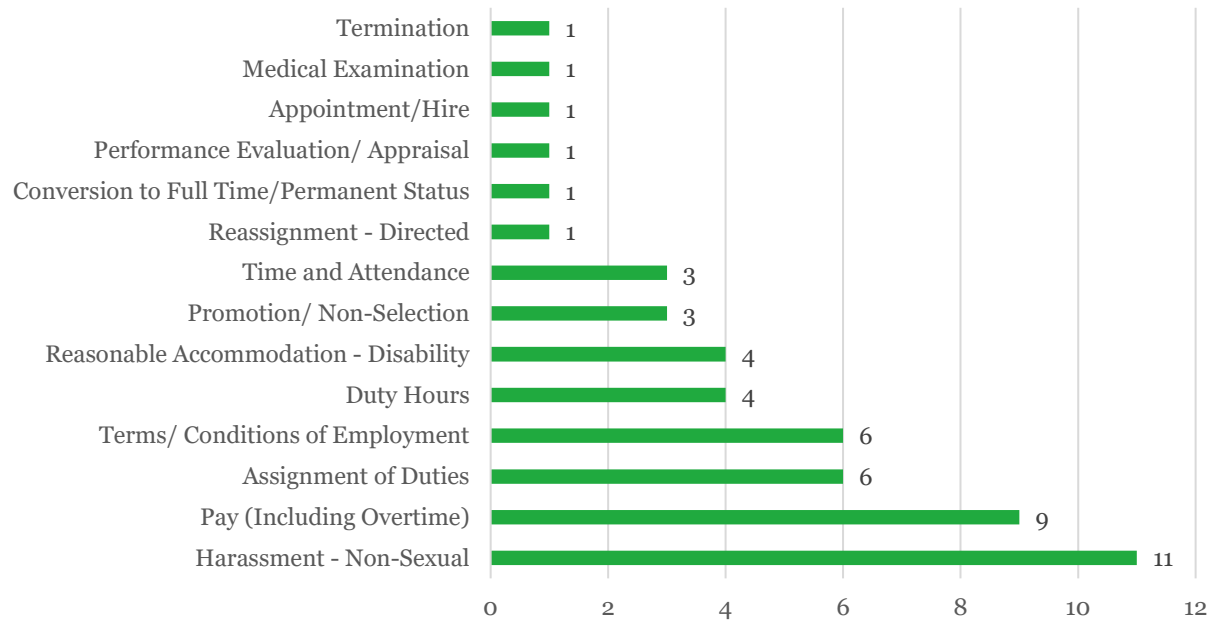
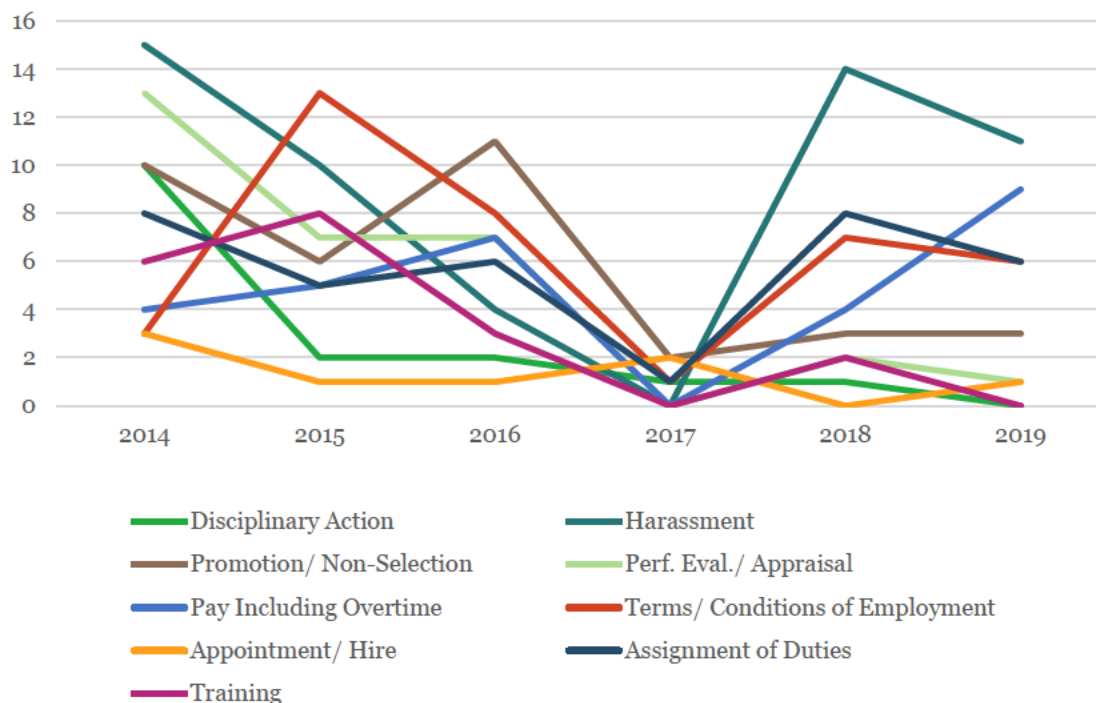


Figure 9 presents frequencies of issues appearing in the top three for any year from FY 2014 – FY 2019.

FIGURE 9: FORMAL EEO COMPLAINT ACTIVITY BY ISSUE FY 2014 – FY 2019



Bases and issues in CFPB formal EEO complaint filings in FY 2019 were somewhat consistent with government-wide and comparable agency statistics. According to the EEOC, across the Federal government in FY 2018, Reprisal was the most frequently cited basis, followed by Age and Disability (physical).⁴⁸ Additionally, in FY 2019, Reprisal, Race, Sex, and Age were among

⁴⁸ See EEOC FY 2018 Table B-8, available at https://www.eeoc.gov/federal/reports/fsp2018/2018_complaints_tables.zip.

the most common complaint bases among other medium-sized financial regulatory agencies with at least 10 complaints.⁴⁹

The EEOC tables for FY 2018 formal EEO complaint data indicate the most frequently alleged issue in formal complaints was Non-Sexual Harassment, followed by Disciplinary Action and then Terms/Conditions of Employment.⁵⁰ In FY 2019, Non-Sexual Harassment, Terms/Conditions of Employment, and Promotion/Non-Selection were all among the most common issues for medium-sized financial regulatory agencies that have had more than 10 formal EEO complaints filed.⁵¹

Processing Times

In FY 2019, OCR completed 30 EEO counselings under Part 1614. OCR received a total of 27 new informal complaints/requests for EEO counseling during FY 2019 (not all were completed before the end of FY 2019); this compares with 52 new counseling requests in FY 2018. All counselings completed in FY 2019 qualified as timely under 29 C.F.R. § 1614.105. Ten counselings were timely completed within 30 days; seven traditional counselings were completed timely with written extensions of no longer than 60 days. Thirteen counselings were processed through the Agency's ADR program and were timely completed within 90 days.⁵² In each of these counselings, the Bureau provided the required notification to individuals on their various rights and responsibilities in the EEO process. This information was provided during

⁴⁹ FDIC data is located at <https://www.fdic.gov/about/diversity/nofear/nfreport.html>. OCC data is located at <https://home.treasury.gov/system/files/306/occ-qtr-1-fy2019.pdf>. SEC data is located at <https://www.sec.gov/eeoinfo/nofeardata.htm>.

⁵⁰ See EEOC FY 2018 Table B-8, available at https://www.eeoc.gov/federal/reports/fsp2018/2018_complaints_tables.zip.

⁵¹ FDIC data is located at <https://www.fdic.gov/about/diversity/nofear/nfreport.html>. OCC data is located at <https://home.treasury.gov/system/files/306/occ-qtr-1-fy2019.pdf>. SEC data is located at <https://www.sec.gov/eeoinfo/nofeardata.htm>.

⁵² See 29 C.F.R. §§ 1614.105(d), (f).

the initial counseling session verbally and later in writing.⁵³

As noted above, in FY 2019, 17 new formal EEO complaints were filed under Part 1614 and/or Executive Order 11478 (as amended), compared with 21 in FY 2018. In all new formal EEO complaints, CFPB issued acknowledgement letters immediately upon receipt of a formal complaint.⁵⁴ Of the 17 new formal EEO complaints that were filed in FY 2019, the average length of time for issuing the acknowledgement letter was three days. In addition, OCR issued all Acceptance letters/Dismissal decisions within a reasonable time (e.g., 60 days) after receipt of the written EEO counselor's report.⁵⁵ Of the 17 new formal EEO complaints that were filed in FY 2019, the average length of time for issuing the Accept/Dismiss communication was 11.7 days. In FY 2019, CFPB dismissed four formal complaints; the average days such complaints were pending before dismissal was 15 days.

In FY 2019, OCR conducted investigations of formal EEO complaints within the regulatory timeframes, although the timeframes did increase.⁵⁶ The 18 investigations completed during FY 2019 were completed in an average of 229 days. With respect to formal complaint processing, in FY 2019:

- The average number of days in investigation for complaints pending for any length of time during the fiscal year (for which investigations were completed during the fiscal year) was 227.24, an increase from an average of 142.86 days in FY 2018;
- The average number of days in investigation for complaints pending for any length of time during FY 2019 where a hearing was requested was 229.00, an increase from an average of 190.33 days in FY 2018; and
- The average number of days in investigation for complaints pending for any length of time during FY 2019 where a hearing was not requested was 225.92, an increase from an

⁵³ See 29 C.F.R. § 1614.105(b)(1).

⁵⁴ See MD-110, Chapter 5, at Section I.

⁵⁵ *Id.*

⁵⁶ See 29 C.F.R. § 1614.108(f).

average of 107.25 days in FY 2018.

All investigations in FY 2019 were completed timely while the matters were within the jurisdiction of OCR. One investigation was completed after an AJ hearing was requested and the matter thus was within the jurisdiction of the EEOC. (The ROI was provided to the complainant and the EEOC only a few days beyond what would have been the due date for the completion of the investigation had no hearing been requested.)

OCR also provides complainants with the regulatorily required “180-day letter” if an investigation is expected to go over 180 days. This letter notifies complainants of the date by which OCR expects to complete the investigation and informs complainants of their immediate right to request a hearing before an EEOC Administrative Judge or to file a lawsuit. Of the 18 investigations completed during FY 2019, 14 exceeded 180 days due to amendments that extended processing timelines under applicable regulations; in these matters, OCR provided the complainants the required “180-day letter” on or before the 180th day of the investigations.⁵⁷

As of the end of FY 2019, 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 2019 was 39.94. All Final Agency Decisions (FADs) and Final Agency Orders (FAOs) were issued on time. The highest number of Final Agency Actions issued by OCR across all Fiscal Years was during FY 2019, during which OCR issued 22 FADs and 4 FAOs. This is more than double the number of decisions issued in a year compared to all other fiscal years.

In FY 2019, OCR issued nine FADs on the merits. The average length of time for issuing these FADs was 54 days – under the regulatory requirement of 60 days.⁵⁸

As soon as OCR receives notice that a complainant has requested an EEOC hearing before an

⁵⁷ See 29 C.F.R. §1614.108(g).

⁵⁸ See 29 C.F.R. § 1614.110(b).

Administrative Judge (AJ) or has filed an appeal of a final agency action with EEOC's OFO, OCR uploads all documents to FedSEP (the EEOC's online (password-protected) federal-sector EEO portal).⁵⁹ The Agency also timely issues FAOs following receipt of any EEOC AJ decision and the associated hearings file.⁶⁰ In FY 2019, the average length of time for issuing FAOs (five were issued in FY 2019) was 20 days.

Practical knowledge gained

The Bureau has worked to create a best-in-class EEO program. Over the past six years of enforcing EEO laws and Executive Orders at the Bureau, the OCR Director and staff have gained invaluable insights that have helped improve the Agency's overall EEO program. Lessons learned include:

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

⁵⁹ See 29 C.F.R. § 1614.403(g).

⁶⁰ See 29 C.F.R. § 1614.110(a).

barrier analysis – remains vital to guaranteeing workplace civil rights and upholding merit system principles.

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

reasonable efforts to settle complaints of discrimination as early as possible in, and throughout, the administrative processing of complaints.

EEO Program Action Plans

OCR has applied – and will continue to apply – the above experience and insights gained as the Bureau’s EEO program evolves. CFPB’s FY 2019 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 2020 and beyond.⁶¹

In FY 2020 CFPB’s OCR intends to:

- Address an item raised in EEOC’s December 17, 2019 technical-assistance letter regarding the role of the Agency’s Legal Division in the allocation of 0905 (Attorney) positions in non-LD Divisions/offices (e.g., OCR). EEOC “commended CFPB for providing the EEO office with its own attorneys who can perform the legal sufficiency review of decisions.” In addition, EEOC asked whether the General Counsel’s authority to approve OCR attorney hires and promotions “may constitute a conflict of interest because the agency representative could leverage EEO staff for more favorable or fewer decisions.” Recently, OEOF and the Legal Division signed an MOU on attorney promotion-related issues that partially addresses EEOC’s concern; however, it does not address the approval of positions classified as attorney positions within OCR. In FY 2020, the Bureau will carefully review the EEOC’s comments on this matter, take any necessary steps to address EEOC’s concern about a “potential conflict of interest[,]” and report back to the EEOC as soon as possible.
- Continue to manage informal and formal EEO complaints appropriately.
- Develop and begin to deliver a 90-minute training to provide live EEO refresher training for *all* CFPB employees by the end of FY 2021.
- Create and deploy a new, interactive mandatory annual online No FEAR Act training to be taken by *all* CFPB employees. CFPB, in partnership with the Legal Division, will develop one version of an online module for supervisors and a separate version for non-supervisory

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.)

employees. This training will also meet new requirements adopted in the Dr. Chris Kirkpatrick Act of 2017 requiring agencies to provide training to supervisors on how to respond to complaints alleging violations of whistleblower protection laws.

- Support the ongoing work of the OEOF's OMWI and DAP, including DAP efforts to continue implementing the EEOC's affirmative action regulations under Section 501 of the Rehabilitation Act of 1973.
- Continue to implement action items to rectify barriers identified to date.
- Conduct a new disability-focused barrier analysis.
- Partner with OOWI and OHC to conduct focus groups to pinpoint root causes of demographic disparities in employee survey results and responses.
- Research vendors to provide software-as-a service to facilitate more efficient (and automated) trigger identification for barrier-analysis purposes.
- Continue to market the Bureau-wide ADR Program as a tool to de-escalate all types of workplace conflicts, and promote the new Communication and Conflict Coaching Program.
- Collaborate with other offices to combine data and present to Division leaders to brief them on their general and aggregate complaint activity, potential triggers or barriers identified in their Division, harassment inquiry data, grievance data, separation data, AES and exit survey data, demographic data, and any other relevant data to help leaders identify issues within their offices.
- Network with the federal sector EEO community to learn new best practices and innovative approaches that can be used in the Bureau's workplace, including through participation in the EEOC's emerging Education Consortium for Federal-Sector EEO Practitioners.

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

- Continuing to incorporate the EEOC's Six Essential Elements of a Model EEO Program to achieve greater program effectiveness;
- Briefing senior leadership on the state of the EEO program to reaffirm support for the program, provide awareness of issues and trends (systemic or otherwise), and solicit input on strengthening the Bureau's EEO program;

- Continuing to process all informal and formal complaints and requests for ADR in compliance with 29 C.F.R. Part 1614 and MD-110;
- Maintaining accuracy and efficiency of EEO complaint data monitoring, tracking, and reporting through continued use of iComplaints and continued enforcement of robust internal controls related to data tracking and monitoring;
- Increasing employee awareness of EEO statutes, including by distributing EEO-related information via various means and media (e.g., digital channels, informational brochures and fact sheets, individual and group training and outreach);
- Promoting communication and early intervention to help Bureau officials identify the issues and bases that may give rise to EEO complaints;
- Training supervisors and managers to provide proactive approaches to resolving issues stemming from alleged violations of personnel policies and practices;
- Fostering constructive, open, continuous communication between employees and management to help resolve workplace conflicts at the earliest possible opportunity, and ensuring that employees, management officials, and persons with settlement authority understand the purpose and value of ADR;
- Continuing to collaborate with stakeholders across the Agency to analyze workforce demographic data and to establish and administer affirmative employment plans that ensure equal employment opportunity for all consistent with applicable law, rules, regulations, and guidance;
- Reviewing feedback from employee surveys, exit interviews, listening sessions, and training to identify opportunities for improvement;
- Training supervisors and managers on leadership, management principles, communication techniques, legal compliance, and fostering diversity and inclusion;
- Ensuring CFPB management is accountable for the success of the EEO program through transparency, by emphasizing measurable EEO and affirmative employment goals and objectives that are incorporated into Divisional strategic plans, and through the performance assessment of supervisors and managers;
- Cultivating an inclusive work environment, including by participating in WEC efforts,

supporting the implementation of Employee Resource Groups (ERGs) and staff-level diversity councils (e.g., DICE), etc.; and

- Incorporating EEO best practices gained through the Bureau's coalitions with other Federal agencies, particularly financial regulatory agencies and other small- and medium-sized agencies.

3.5 No FEAR Act training

The No FEAR Act requires each Federal agency to train all employees regarding the rights and remedies applicable to them under the relevant antidiscrimination and whistleblower protection laws.⁶²

Each year, all CFPB employees must take a one-hour, web-based training on the No FEAR Act. Approximately 98 percent of employees completed this mandatory No FEAR Act training in FY 2019.

As noted above, in FY 2020 CFPB is creating and deploying a new, interactive mandatory annual online No FEAR Act training to be taken by all CFPB employees. OCR, in partnership with the Legal Division, will develop one version of an online module for supervisors and a separate version for non-supervisory employees. This training will also meet new requirements adopted in the Dr. Chris Kirkpatrick Act of 2017 requiring agencies to provide training to supervisors on how to respond to complaints alleging violations of whistleblower protection laws.

Throughout FY 2019, OCR, in partnership with other Bureau offices such as OHC and the Legal Division, worked to ensure Bureau managers, supervisors, and all employees are aware of, have physical copies of, and/or know where to access all EEO policies and procedures and related information. The Bureau made use of virtually all the ideas suggested by the EEOC in its

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

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

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

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

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

Media Used To Distribute EEO Information to CFPB Employees

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

OCR “Top Ten EEO Tips” Webinars

OMWI D&I Brownbag Sessions

APPENDIX A:

Legislative and regulatory language

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

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

(1) The number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged;

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

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

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

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

(6) A detailed description of —

(A) The policy implemented by that agency relating to appropriate disciplinary actions against a Federal employee who —

(i) Discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2); or

(ii) Committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2); and

(B) With respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken;

(7) An analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with Part 1614 of Title 29 of the Code of Federal Regulations) including —

(A) An examination of trends;

(B) Causal analysis;

(C) Practical knowledge gained through experience;

(D) Any actions planned or taken to improve complaint or civil rights programs of the agency; and

(8) Any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.

Subpart C of 5 C.F.R. Part 724 requires:

§ 724.302 Reporting obligations.

(a) Except as provided in paragraph (b) of this section, each agency must report no later than 180 calendar days after the end of each fiscal year the following items:

(1) The number of cases in Federal court pending or resolved in each fiscal year and arising under each of the respective provisions of the Federal Antidiscrimination Laws and Whistleblower Protection Laws applicable to them as defined in § 724.102 of subpart A of this part in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved;

(2) In the aggregate, for the cases identified in paragraph (a)(1) of this section and separated by provision(s) of law involved:

- (i) The status or disposition (including settlement);
 - (ii) The amount of money required to be reimbursed to the Judgment Fund by the agency for payments as defined in § 724.102 of subpart A of this part;
 - (iii) The amount of reimbursement to the Fund for attorney's fees where such fees have been separately designated;
- (3) In connection with cases identified in paragraph (a)(1) of this section, the total number of employees in each fiscal year disciplined as defined in § 724.102 of subpart A of this part and the specific nature, e.g., reprimand, etc., of the disciplinary actions taken, separated by the provision(s) of law involved;
- (4) The final year-end data about discrimination complaints for each fiscal year that was posted in accordance with Equal Employment Opportunity Regulations at subpart G of title 29 of the Code of Federal Regulations (implementing section 301(c)(1)(B) of the No FEAR Act);
- (5) Whether or not in connection with cases in Federal court, the number of employees in each fiscal year disciplined as defined in § 724.102 of subpart A of this part in accordance with any agency policy described in paragraph (a)(6) of this section. The specific nature, e.g., reprimand, etc., of the disciplinary actions taken must be identified.
- (6) A detailed description of the agency's policy for taking disciplinary action against Federal employees for conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice revealed in connection with agency investigations of alleged violations of these laws;
- (7) An analysis of the information provided in paragraphs (a)(1) through (6) of this section in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with 29 CFR part 1614 subpart F of the Code of Federal Regulations. Such analysis must include:
- (i) An examination of trends;
 - (ii) Causal analysis;
 - (iii) Practical knowledge gained through experience; and
 - (iv) Any actions planned or taken to improve complaint or civil rights programs of the agency with the goal of eliminating discrimination and retaliation in the workplace;

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

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

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

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

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

APPENDIX B:

FY 2019 EEO and anti-harassment policy statement



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

February 2019

MEMORANDUM TO: All CFPB Employees

FROM: Kathleen L. Kraninger
Director

SUBJECT: FY 2019 EEO and Anti-Harassment Policy Statement

Dear Colleagues:

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

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

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

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

Kathleen L. Kraninger
Director

consumerfinance.gov



The CFPB Policy Statement on Equal Employment Opportunity and Workplace Harassment

General EEO Policy

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

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

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

Discriminatory Harassment Defined

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

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

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

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

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

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

Employee Rights and Responsibilities

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

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

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

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

Manager/Supervisor Rights and Responsibilities

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

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

Protection Against Retaliation

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

Filing an EEO Complaint for Violations of Law

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

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



Additional Information

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

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

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

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

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

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

Contact Information for the CFPB's Office of Civil Rights

U.S. Postal Service Mail:

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

Hand-Delivery:

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

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4



Phone:

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

E-mail:

CFPB_EEO@cfpb.gov

Fax:

202-435-9598

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5

FY 2019 Notice on the No FEAR Act and whistleblower protection laws/prohibited personnel practices

February 2019

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

FROM: Kathleen L. Kraninger
Director

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

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

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

Antidiscrimination Laws

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

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

- If you believe that you have been the victim of unlawful discrimination and wish to pursue a discrimination claim on the basis of race, color, religion, sex (including pregnancy, sexual orientation, transgender status, gender identity or expression, gender non-conformity, or sex stereotyping of any kind), national origin, disability,

genetic information, or parental status you may file a formal complaint of discrimination with the CFPB's Office of Civil Rights (OCR). To file a complaint of discrimination with OCR, you first must contact an Equal Employment Opportunity (EEO) counselor in OCR. (See contact information for OCR at the bottom of this notice.)

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

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

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

- If you believe that you have been the victim of unlawful discrimination on the basis of age (40+) in violation of the Age Discrimination in Employment Act of 1967, you may proceed through the administrative EEO process by contacting OCR to request EEO counseling within 45 calendar days. (This is the same as for an allegation of discrimination based on race, color, religion, sex, national origin, disability, genetic information, or parental status, as noted above.) *Alternatively*, you can choose to file an age-discrimination lawsuit in an appropriate United State district court. If you choose this direct-suit option, you must first give the [Equal Employment Opportunity Commission](#) (EEOC) notice that you intend to sue. You must give the EEOC this notice at least 30 days before you file your lawsuit in court. This notice-of-intent-to-sue may be filed in writing with the EEOC, at P.O. Box 77960, Washington, D.C. 20013. You may also file the notice by facsimile (if the fax is 10 pages or less), at (202) 663-7022. Finally, you may file this notice by personal delivery to the EEOC's Office of Federal Operations/Federal Sector Programs Branch at 131 M Street, NE, Washington, D.C. 20507.

You must file this notice of intent to sue within 180 calendar days of

the alleged discriminatory action. See 29 C.F.R. § 1614.201(a).

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

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

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

Whistleblower Protection Laws/Prohibited Personnel Practices

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

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

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

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

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

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

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

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

Retaliation for Engaging in Protected EEO-Related Activity

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

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

Disciplinary Actions

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

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

Additional Information

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

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

Existing Rights Unchanged

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

Contact Information for the CFPB Office of Civil Rights

U.S. Postal Service Mail:

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

Hand-Delivery:

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

Phone:

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

E-mail:

CFPB_EEO@cfpb.gov

Fax:

202-435-9598

APPENDIX C:

Summary of complaint data

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

For the period ending September 30, 2019.

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

1. Complaint activity

TABLE 5: COMPLAINT ACTIVITY

Complaint Activity	2014	2015	2016	2017	2018	2019
Number of complaints filed	25	22	19*	5	21**	17***
Number of complainants	24	19	18	5	19	14
Repeat filers ⁶⁴	1	3	1	0	2	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 currently as individual complaints. *See* 29 C.F.R. § 1614.204(d)(7). Total new formal complaints filed in FY 2016 thus equal 16.

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

*** Two of these reported matters involve alleged violations of Executive Order 11478 (as amended) only. Thus, in FY 2019 BCFP received 15 new formal complains 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	2014	2015	2016	2017	2018	2019
Race	17	14	8	2	13	9
Color	5	10	6	1	5	4
Religion	1	2	0	0	2	0
Reprisal	16	16	13	3	12	9
Sex	10	13	10	2	11	9
Pregnancy (PDA)	0	0	2	0	0	0
National Origin	8	5	2	1	0	2
Equal Pay (EPA)	0	2	5	0	0	1
Age	9	7	4	4	5	7
Disability	3	10	4	0	5	4
Genetic Information	0	0	0	0	0	0
Non-EEO	2	0	2	1	2	3

* 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	2014	2015	2016	2017	2018	2019
Appointment/Hire	3	1	1	2	0	1
Assignment of Duties	8	5	6	1	8	6
Awards	0	0	0	0	2	0
Conversion to Full Time/Permanent Status	0	3	2	0	0	1
Duty Hours	1	0	0	0	3	4
Performance Evaluation/Appraisal	13	7	7	0	2	1
Examination/Test	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	1
Pay (Including Overtime)	4	5	7	0	4	9
Promotion/Non-Selection	10	6	11	2	3	3
Reasonable Accommodation – Disability	0	2	3	0	1	4
Reinstatement	0	0	0	0	0	0
Reasonable Accommodation – Religion	0	0	0	0	0	0
Retirement	0	0	0	0	0	0
Sex Stereotyping	0	0	0	0	0	0
Telework	0	0	0	0	0	0
Termination	2	0	1	0	0	1
Terms/Conditions of Employment	3	13	8	1	7	6
Time and Attendance	4	2	3	0	2	3
Training	6	8	3	0	2	0

Complaints by Issue	2014	2015	2016	2017	2018	2019
Other	2	1	0	0	0	0

TABLE 8: COMPLAINTS INVOLVING DISCIPLINARY ACTION

Type of Disciplinary Action	2014	2015	2016	2017	2018	2019
Demotion	0	0	1	0	0	0
Reprimand	9	2	1	1	0	0
Suspension	0	0	0	0	0	0
Removal	1	0	0	0	1	0
Other	0	0	0	0	0	0

TABLE 9: COMPLAINTS INVOLVING HARASSMENT

Type of Harassment	2014	2015	2016	2017	2018	2019
Non-Sexual	15	9	4	0	12	11
Sexual	0	1	0	0	2	0

TABLE 10: COMPLAINTS INVOLVING REASSIGNMENT

Type of Reassignment	2014	2015	2016	2017	2018	2019
Denied	1	1	0	0	0	0
Directed	1	1	1	0	3	1

2. Complaint processing times

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

Type of Processing Time	2014	2015	2016	2017	2018	2019
Average number of days in investigation	230.00	247.00	270.05	238.20	142.86	227.24
Average number of days in final action	17.00	119.00	91.83	60.50	133.00*	39.94

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

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

Type of Processing time	2014	2015	2016	2017	2018	2019
Average number of days in investigation	278.00	183.00	242.83	240.83	190.33	229.00
Average number of days in final action	178.00	219.00	0.00	35.67	35.00	24.33

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

Type of Processing Time	2014	2015	2016	2017	2018	2019
Average number of days in investigation	214.00	293.00	316.71	243.33	107.25	225.92
Average number of days in final action	90.00	52.00	91.83	85.33	165.67*	49.30

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

3. Complaint dismissals and withdrawals

TABLE 14: COMPLAINTS DISMISSED BY AGENCY

Agency Dismissal Information	2014	2015	2016	2017	2018	2019
Total complaints dismissed by agency	2	2	1	1	4	4
Average days pending prior to dismissal	293.00	26.00	34.00	21.00	13.00	15.00

TABLE 15: COMPLAINTS WITHDRAWN BY COMPLAINANTS

Complaints Withdrawn	2014	2015	2016	2017	2018	2019
Total complaints withdrawn by complainants	0	1	2	3	0	1

4. Findings of discrimination

TABLE 16: TOTAL FINAL AGENCY ACTIONS FINDING DISCRIMINATION

Type of Findings	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Total findings	0	0	0	0	1	100	0	0	1	100	0	0
Without hearing	0	0	0	0	1	100	0	0	1	100	0	0
With hearing	0	0	0	0	0	0	0	0	0	0	0	0

4.1 Findings by basis*

TABLE 17: TOTAL FINDINGS OF DISCRIMINATION RENDERED BY BASIS

Basis	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Total findings	0	0	0	0	1	100	0	0	1	100	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	1	100	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	1	100	0	0	1	100	0	0

Basis	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Genetic Information	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 18: FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY BASIS

Basis	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Total findings	0	0	0	0	0	0	0	0	0	0	0	0
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
Pregnancy (PDA)	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay (EPA)	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetic Information	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 19: FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY BASIS

Basis	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Total findings	0	0	0	0	1	100	0	0	1	100	0	0
Race	0	0	0	0	0	0	0	0	0	0	0	0

Basis	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
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	1	100	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	1	100	0	0	1	100	0	0
Genetic Information	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

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

4.2 Findings by issue

TABLE 20: TOTAL FINDINGS OF DISCRIMINATION RENDERED BY ISSUE

Issue	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Total findings	0	0	0	0	1	100	0	0	1	100	0	0
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	1	100	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Permanent Status	0	0	0	0	0	0	0	0	0	0	0	0

Issue	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/Appraisal	0	0	0	0	1	100	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Disability	0	0	0	0	1	100	0	0	1	100	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Religion	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Sex Stereotyping	0	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 21: FINDINGS OF DISCRIMINATION RENDERED BY ISSUE – DISCIPLINARY ACTION

Type of Disciplinary Action	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0

Type of Disciplinary Action	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 22: FINDINGS OF DISCRIMINATION RENDERED BY ISSUE – HARRASSMENT

Type of Harassment	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 23: FINDINGS OF DISCRIMINATION RENDERED BY ISSUE – REASSIGNMENT

Type of Reassignment	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 24: FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE

Issue	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Total findings after hearing	0	0	0	0	0	0	0	0	0	0	0	0
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Permanent Status	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/Appraisal	0	0	0	0	0	0	0	0	0	0	0	0

Issue	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Disability	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Religion	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Sex Stereotyping	0	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 25: FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE – DISCIPLINARY ACTION

Type of Disciplinary Action	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0

Type of Disciplinary Action	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 26: FINDINGS OF DISCRIMINATION RENDERED AFTER HEARING BY ISSUE – HARASSMENT

Type of Harassment	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0

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

Type of Reassignment	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 28: FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY ISSUE

Type of Issue	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Total findings without hearing	0	0	0	0	1	100	0	0	1	100	0	0
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	1	100	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Permanent Status	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Performance Evaluation/Appraisal	0	0	0	0	1	100	0	0	0	0	0	0

Type of Issue	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Disability	0	0	0	0	1	100	0	0	1	100	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation – Religion	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Sex Stereotyping	0	0	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0

TABLE 29: FINDINGS OF DISCRIMINATION RENDERED WITHOUT HEARING BY ISSUE – DISCIPLINARY ACTION

Type of Discipline	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0

Type of Discipline	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Other	0	0	0	0	0	0	0	0	0	0	0	0

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

Type of Harassment	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0

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

Type of Reassignment	2014 #	2014 %	2015 #	2015 %	2016 #	2016 %	2017 #	2017 %	2018 #	2018 %	2019 #	2019 %
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0

5. Pending complaints

TABLE 32: PENDING COMPLAINTS FILED IN PREVIOUS FISCAL YEARS BY STATUS

Pending Complaints and Complainants	2014	2015	2016	2017	2018	2019
Total complaints from previous fiscal years	20	32	21	16	14	10
Total complainants	20	25	17	12	12	10

TABLE 33: PENDING COMPLAINTS BY STATUS

Where in EEO Process Complaints Are Pending	2014	2015	2016	2017	2018	2019
Investigation	19	8	0	0	0	0
ROI issued, pending complainant's action	1	2	0	0	0	0
Hearing	0	12	18	12	14	9
Final Agency Action	0	6	2	1	0	1
Appeal with EEOC Office of Federal Operations	0	4	6	9	3	7

6. Investigation timeframes

TABLE 34: INVESTIGATIONS THAT EXCEED TIME FRAMES

Investigations	2014	2015	2016	2017	2018	2019
Pending complaints where investigations exceed required time frames	0	2	0	0	0	0