

No FEAR Act
ANNUAL REPORT
FISCAL YEAR 2024

U.S. Department of Agriculture

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Annual Reporting Requirements

The Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002 (No FEAR Act), Public Law No. 107-174, Section 203, mandates that Federal Agencies provide an annual report with information relating to each agency's Equal Employment Opportunity (EEO) complaints activity for each fiscal year (FY). This report contains the:

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

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

Executive Summary

USDA's FY 2024 No FEAR Act Annual Report is the twentieth report submitted pursuant to the No FEAR Act, Public Law No. 107-174, Section 203. The No FEAR Act Annual Report demonstrates key accomplishments for USDA during FY 2024 to reduce discrimination and retaliation, increase accountability, emphasize training for managers in the management of a USDA's workforce, encourage dispute resolution and employee communication skills. During FY 2024, USDA continued to reduce its maximum telework posture and issued return to workplace guidance for all Senior Executives and Supervisory personnel.

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

- An increase of 84 EEO complaints filed between FY 2023 and FY 2024, compared to 44¹ complaints filed between FY 2023 and FY 2022. In addition, the number of filers increased by 66 in FY 2024 compared to the previous fiscal year. The increased whistleblower protection educational initiatives, which began in FY 2022 and continued in FY 2024, appear to have an on-going impact, resulting in a rise of whistleblower retaliation referrals to the Office of Special Counsel (OSC) in FY 2024. However, in FY 2024, USDA experienced an overall decrease to \$0 in reimbursement to the Judgment Fund.
- USDA continued to enforce compliance with Federal anti-discrimination laws and whistleblower protection statutes through mandatory AgLearn training. In addition, it is USDA's policy to ensure appropriate disciplinary or corrective actions are taken when discrimination, retaliation, civil rights violations, harassment, bullying, or related misconduct occurs. A review of disciplinary actions taken against employees who violated Federal anti-discrimination laws and whistleblower protection statutes shows four disciplinary actions were taken against employees in FY 2024, compared to five in FY 2023 (See Part III: Table 9 Administrative Disciplinary Actions).
- Reduced processing times in employment complaints of discrimination in FY 2024 and processed 358 formal complaints of discrimination at the intake stage for acceptance or dismissal determinations.
- Conducted all EEO investigations on behalf of the sub-agencies and consistently processed such investigations with an average processing time of 141 days or less. This timeframe falls below the regulatory time frame of 180 days.
- Maintained an average processing time for USDA to issue Final Agency Decisions was 39 days, which was below the regulatory time frame of 60 days.

¹ The overall FY 2023 numbers for EEO Complaints Filed increased by 1 due to data reconciliation. however, the numbers reported for FY 2023 in the FY 2023 No FEAR Act Report are maintained within this report for consistency.

- Increased the number of USDA final agency actions by 4 percent and the Equal Employment Opportunity Commission (EEOC) post hearings by 33 percent, decreased the number of EEOC decisions without hearing by 60 percent, and decreased dismissals pending at EEOC from FY 2023 by 32 percent.
- Decreased the number of formal complaints that exceeded the 180-day investigation requirement to 4 in FY 2024 compared to 12 in FY 2023; this represents a 67 percent reduction.

In addition, during FY 2024 USDA, the Office of the Assistant Secretary for Civil Rights (OASCR), implemented the following initiatives:

- Submitted all Congressional and EEO reports timely, to include the Affirmative Employment Program Plan for Minorities and Women and the Affirmative Action Plan for Individuals with Disabilities Accomplishment Report and Updates (EEOC Management Directive 715):
 - No FEAR Act Report to Congress.
 - 462 Report.
 - Age Act Report to Health and Human Service.
 - Report of Civil Rights Complaints, Resolutions and Actions (Farm Bill).
 - EEOC Technical Assistance Review.
 - Elijah Cummings Anti-Discrimination Act 2020 (ECA) Compliance.
- Conducted 74 Civil Rights Impact Analyses reflective of reviews and analyses of policies, regulations, reorganizations, advisory committee establishments and renewals, or decisions whose implementation may have potential adverse impacts based on civil rights laws, regulations and/or USDA's policy on nondiscrimination in accordance with Departmental Regulation (DR) 4300-004, *Civil Rights Impact Analysis*.
- Developed the annual mandatory training for DR 4200-003, *Anti-Harassment Program*, which established USDA's Anti-Harassment Program on April 18, 2023, which was launched in FY 2024. The Departmental Manual 4200-003, *Anti-Harassment Procedure Manual* was issued on November 6, 2023.
- Achieved a 94 percent completion rate for the No FEAR Act Training, which exceeded the goal of 90 percent for FY 2024.
- Expanded access by incorporating hybrid virtual/in-person programming, ensuring broader participation across USDA offices.
- Hosted the mandatory civil rights trainings for FY 2024 Anti-Harassment Training for all USDA employees and Anti-Harassment Training for all USDA Managers and Supervisors. As of September 2024, USDA achieved a 92 percent completion rate for its employees, certifying 119,123 employees and contractors in Anti-Harassment Training,

and USDA achieved a 96 percent completion rate for its managers and supervisors, certifying 21,483 managers and supervisors in Anti-Harassment Training for Managers and Supervisors.

- Submitted timely the Office of Inspector General (OIG) and General Accountability Office monthly audit reports to the Office the Chief Financial Officer (OCFO), closing one audit.

PART I:
USDA Formal EEO Complaints
for
Fiscal Years 2023 – 2024

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

Introduction

This section contains comparative information regarding the number of formal EEO complaints filed and the number of filers for FYs 2023 and 2024.

Summary of Data

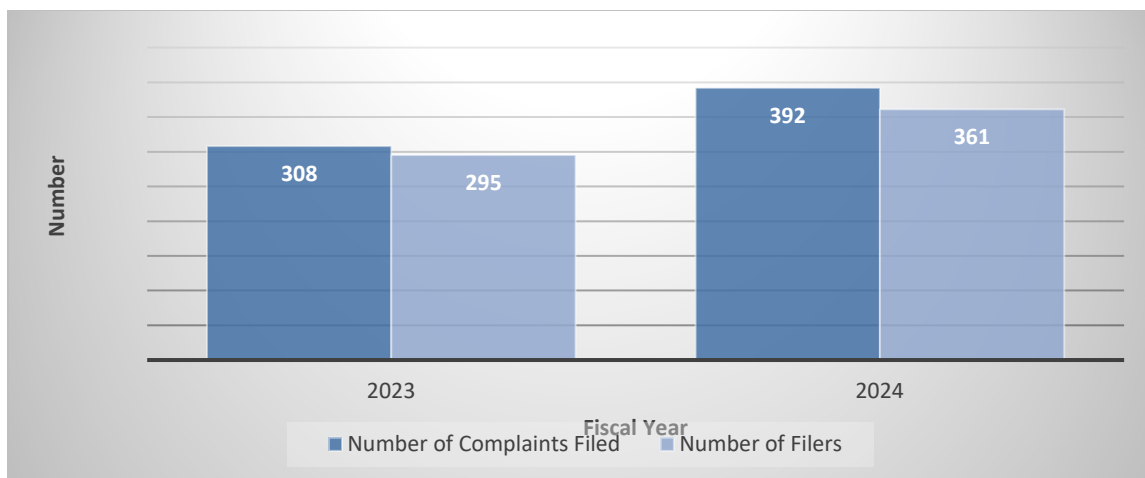
Table 1 below shows the number of formal EEO complaints filed with USDA by fiscal year and the number of individuals who filed complaints. Table 1 illustrates an increase in the number of complaints filed and the number of filers over the prior year (See Graph 1).

In FY 2024, 392 EEO complaints were filed, compared to 308 filed in FY 2023, which represents a 27 percent increase. Additionally, there were 361 filers in FY 2024 compared to 295 in FY 2023, which represents a 22 percent increase.

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

Fiscal Years	Number of Complaints Filed	Number of Filers
2023	308	295
2024	392	361

Graph 1
Formal EEO Complaints and Filers at USDA
FY 2023 and FY 2024 Comparison



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

Introduction

This section contains information on the most frequently cited bases in formal EEO complaints for FYs 2023 and 2024. The basis of the complaint is the protected characteristic the complainant alleges which forms the motivation for the discriminatory conduct. The bases protected by EEO statutes are race, color, religion, national origin, sex, disability, genetics, age, and retaliation (for participating in the EEO complaint process or for opposing practices made illegal under the EEO laws). A complaint brought under the *Equal Pay Act of 1963*, as amended, is a complaint based on sex.

Summary of Data

Table 2 provides data on all bases alleged in formal EEO complaints filed with USDA. Of all the bases, the four frequently cited in formal EEO complaints filed in FY 2024 were: (1) retaliation; (2) race; (3) disability; and (4) sex. In FY 2023, the four frequently cited bases were: (1) retaliation; (2) disability; (3) race and (4) sex. These four bases are illustrated in Graph 2, which shows the two-year trend.

Complaints Alleging Retaliation

Retaliation was the most frequently alleged basis in formal EEO complaints filed at USDA for both FYs 2024 and 2023. In FY 2024, 234 complaints cited retaliation compared to 175 in FY 2023, a 34 percent increase in complaints alleging retaliation.

Complaints Alleging Disability Discrimination

Race and disability were both the second most frequently alleged bases in formal EEO complaints filed at USDA for FY 2024. In FY 2024, 158 complaints cited disability compared to 131 in FY 2023, a 21 percent increase in complaints alleging disability. Of the 158 claims that cited disability as a basis, 62 raised issues of reasonable accommodations.

Complaints Alleging Race Discrimination

Race and disability were both the second most frequently alleged bases in formal EEO complaints at USDA in FY 2024. In FY 2024, 158 complaints cited race compared to 125 complaints in FY 2023, a 26 percent increase in complaints alleging race.

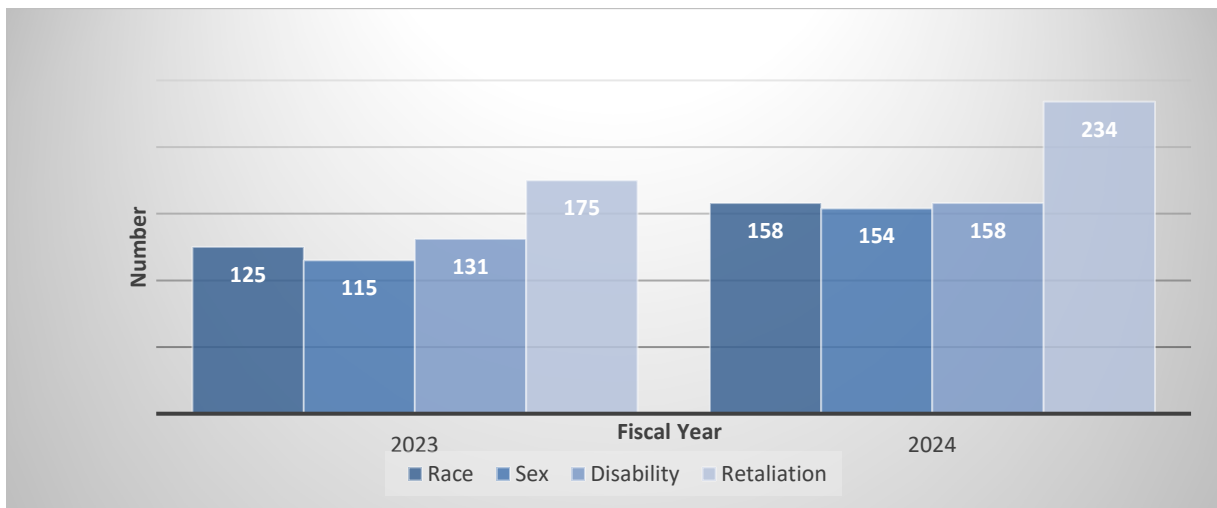
Complaints Alleging Sex Discrimination

Sex was the fourth most frequently alleged basis in formal EEO complaints at USDA in FY 2024. In FY 2024, 154 complaints cited sex compared to 115 in FY 2023, a 34 percent increase in complaints alleging sex.

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

Frequency of EEO Bases in Formal EEO Complaints									
Year	Race	Color	Religion	Sex	National Origin	Disability	Age	Retaliation	Other ²
2023	125	50	33	115	45	131	95	175	41
2024	158	64	34	154	66	158	123	234	47

Graph 2
Most Frequently Cited EEO Bases
FY 2023 and FY 2024



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

Introduction

This section contains information regarding the most frequently cited issues in formal EEO complaints for FYs 2023 and 2024. The No FEAR Act requires Federal Agencies to post data regarding the nature of the issues raised in EEO complaints. The issue of an EEO complaint is the specific subject matter about which the individual is complaining or the alleged discriminatory incident for which the individual is seeking redress. Table 3 contains a list of issues raised most often in complaints. The “Other” category captures all issues not specifically listed.

Summary of Data

Table 3 provides the most frequently cited issues in formal EEO complaints filed with USDA. The three EEO issues most frequently cited in FY 2024 were: (1) Harassment; (2) Promotion/Non-Selection; and (3) Disciplinary Actions. In FY 2023, the three EEO issues most frequently cited were: (1) Harassment; (2) Other Disciplinary Actions; and (3) Promotion/Non-Selection. Graph 3 shows the trends for these three issues over the two-year reporting period.

Harassment was the most frequently cited issues in formal EEO cases in FYs 2024 and 2023. In FY 2024, 261 filings of EEO complaints cited harassment as an issue, compared to 199³ in FY 2023, a 31 percent increase.

Promotion/Non-selection was the second most frequently cited issue in formal EEO cases in FY 2024. A total of 87 filings of complaints cited Promotion/Non-selection as an issue in FY 2024, compared to 55 in FY 2023, a 58 percent increase.

Disciplinary Action⁴ was the third most frequently cited issue in formal EEO cases in FY 2024. A total of 123 filings of complaints cited Disciplinary Action as an issue in FY 2024, compared to 92 in FY 2023, a 34 percent increase.

³ The FY 2023 numbers for EEO Complaints cited harassment as an issue decreased by 9 due to data reconciliation. however, the numbers reported for FY 2023 are maintained for consistency.

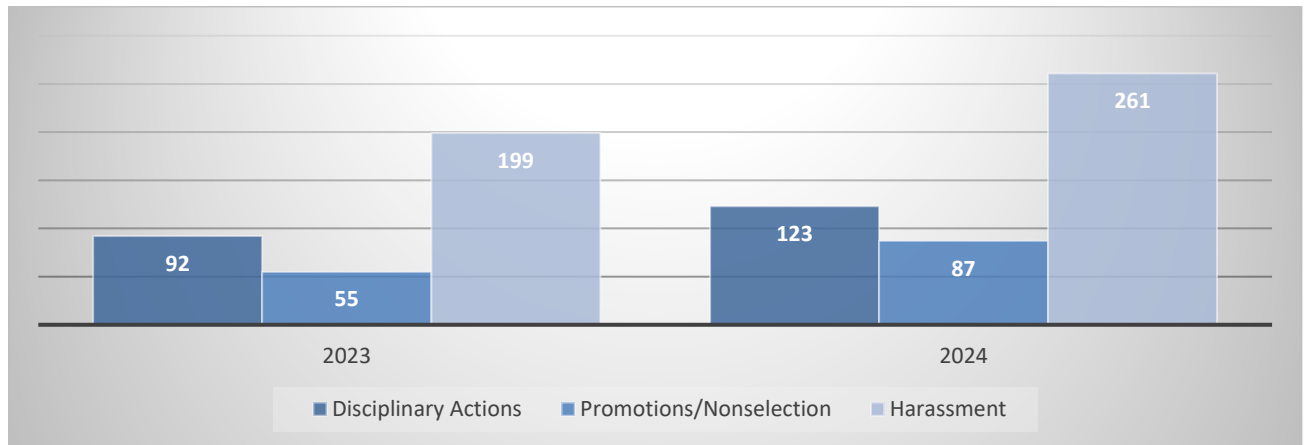
⁴ Disciplinary Action includes demotion, reprimand, suspension, removal and other.

Table 3

EEO Issues in Formal EEO Complaints																					
Year	Appointment/Hire	Assignment of Duties	Awards	Conversions to Full Time	Disciplinary Action	Duty Hours	Performance Evaluation/Appraisal	Examination/Test	Harassment	Medical Examination	Pay/Overtime	Promotion /Non-Selection	Reassignment	Reasonable Accommodation Disability	Reinstatement	Retirement	Termination	Terms and Conditions of Employment	Time and Attendance	Training	*Other
2023	18	0	6	0	92	0	29	0	199	1	23	55	26	54	0	0	38	0	37	26	16
2024	26	0	13	0	123	0	34	0	261	2	25	87	42	62	0	0	57	0	75	48	29

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

Graph 3
Change in number of top three most frequently cited EEO Issues
in Formal EEO Complaints from FY 2023 to FY 2024



Section D—EEO Processing Stages

Introduction

This section contains data regarding selected stages and associated processing times for formal EEO complaints processed during FYs 2023 and 2024. The formal EEO complaint process has various stages. Not all formal complaints complete all processing stages. These stages are:

(1) Investigation (which includes Letter of Acceptance); (2) Final Agency Action with EEOC Hearing; (3) Final Agency Action without EEOC Hearing; and (4) Dismissal. Formal EEO complaints may be withdrawn or settled at any stage and may be dismissed at various stages.

Summary of Data

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

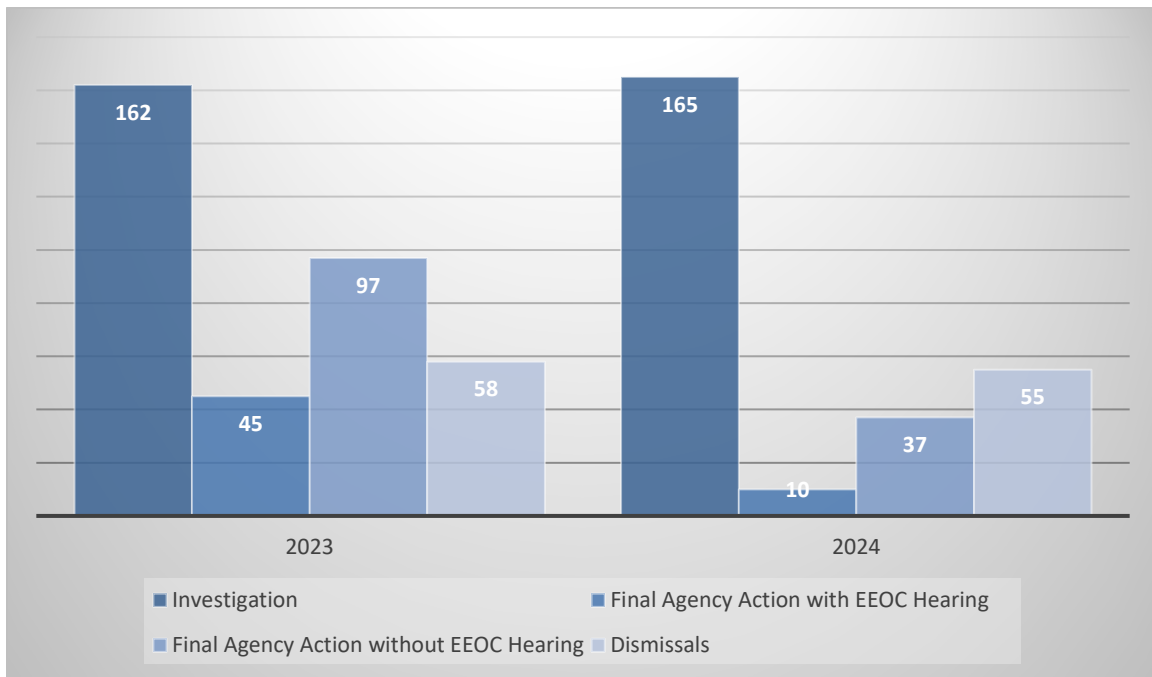
(1) Average Number of Days for Completion of Selected EEO Stages

Table 4 below provides the average number of days for processing a formal EEO complaint at each stage. The data revealed an upward trend (as shown in Graph 4) in the average number of days in Investigation. However, the data reveals a downward trend in Final Agency Action with EEOC hearing, Final Agency Action without an EEOC hearing and dismissals.

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

Year	Investigation (Includes accept/dismissal and investigation)	Final Agency Action Post-EEOC Decision	Final Agency Action without EEOC Hearing	Procedural Dismissals (pending prior to dismissal)
2023	162	45	97	58
2024	165	10	37	55

Graph 4
The Number of Days for Completion of Each EEO Stage
FY 2023 and FY 2024



(2) Pending Complaints at Various Stages

Table 5 below illustrates the number of pending EEO complaints in FYs 2023 and 2024 at each stage of the EEO process.

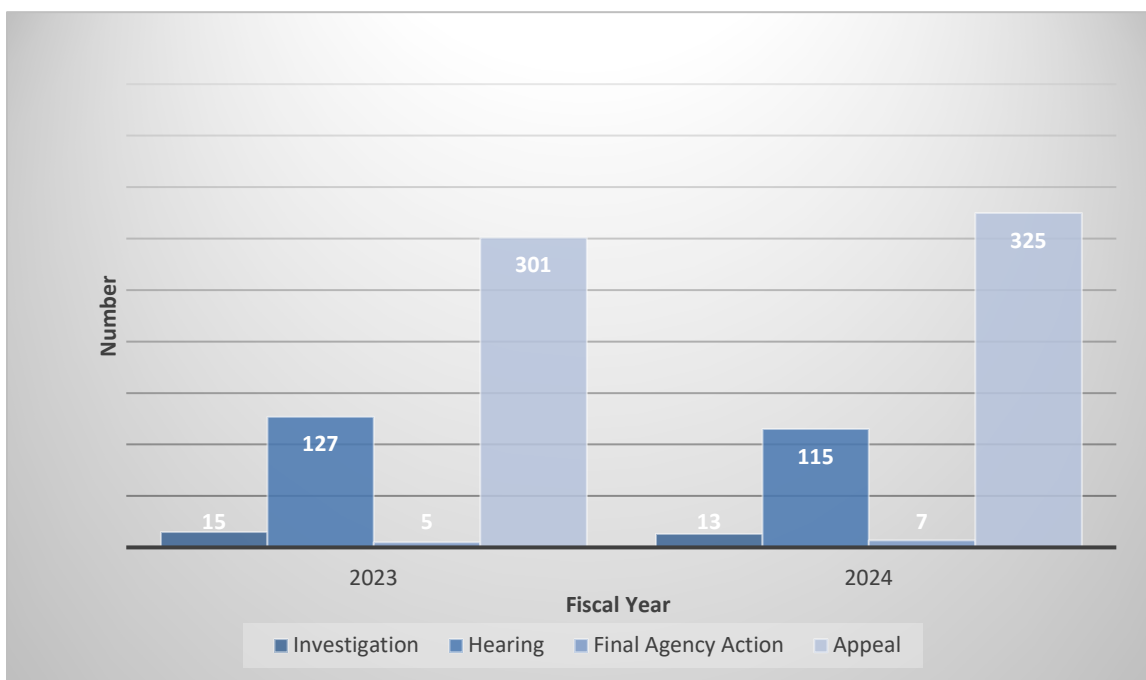
At the conclusion of each fiscal year, there was a decrease in the number of pending investigations and EEOC hearings. However, there was an increase in final agency actions and the number of appeals pending at the EEOC from the number filed in FY 2024.

Table 5
Pending EEO Formal Complaints by Stage

Fiscal Year	Investigation	Hearing	Final Agency Action	Appeal
2023	15	129	5	301
2024	13	115	7	325

Graph 5 shows a downward trend in pending complaints in the Investigation and Hearing stages, and an increase in the Final Agency Action and Appeal stages for FY 2024

Graph 5
Pending EEO Formal Complaints by Stage
FY 2023 and FY 2024



(3) Pending Formal Complaints Exceeding the 180-Day Requirement for Investigations

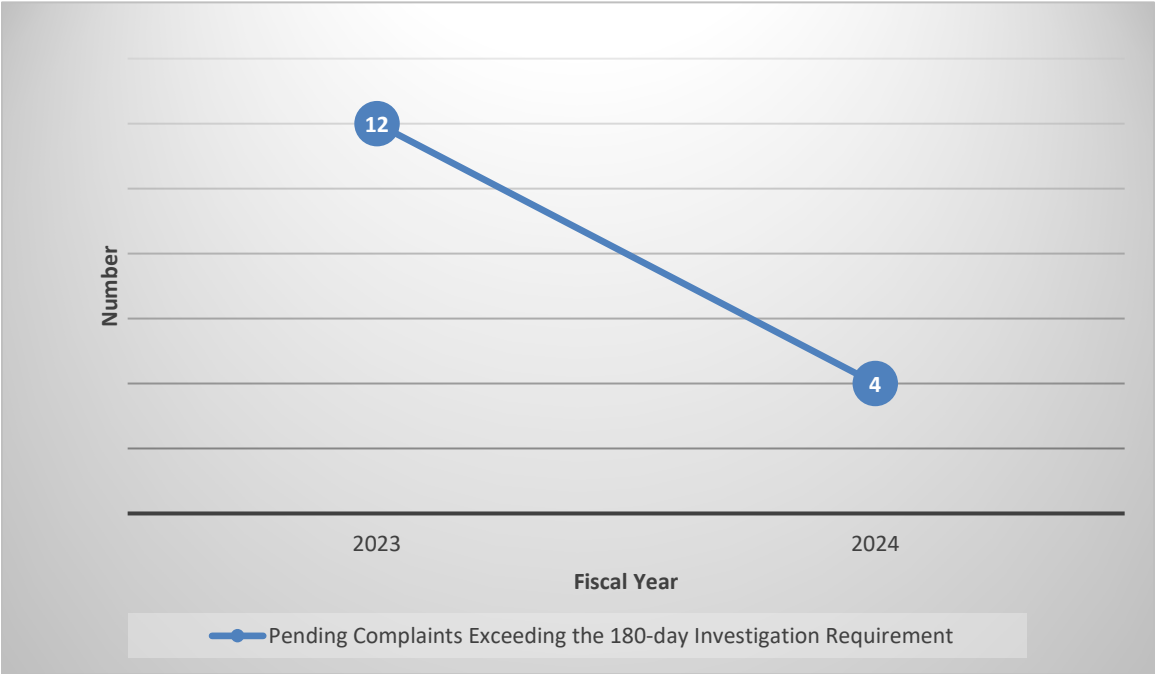
Table 6 and Graph 6 shows a downward trend in formal EEO complaints that exceeded the 180-day investigation requirement from FYs 2023 and 2024.

Table 6
Formal EEO Complaints Exceeding the 180-Day Requirement for Investigations

Fiscal Year	Number
2023	13
2024	4

Graph 6

Formal EEO Complaints Exceeding the 180-Day Requirement for Investigations



Section E—Final Agency Actions with a Finding of Discrimination

Introduction

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

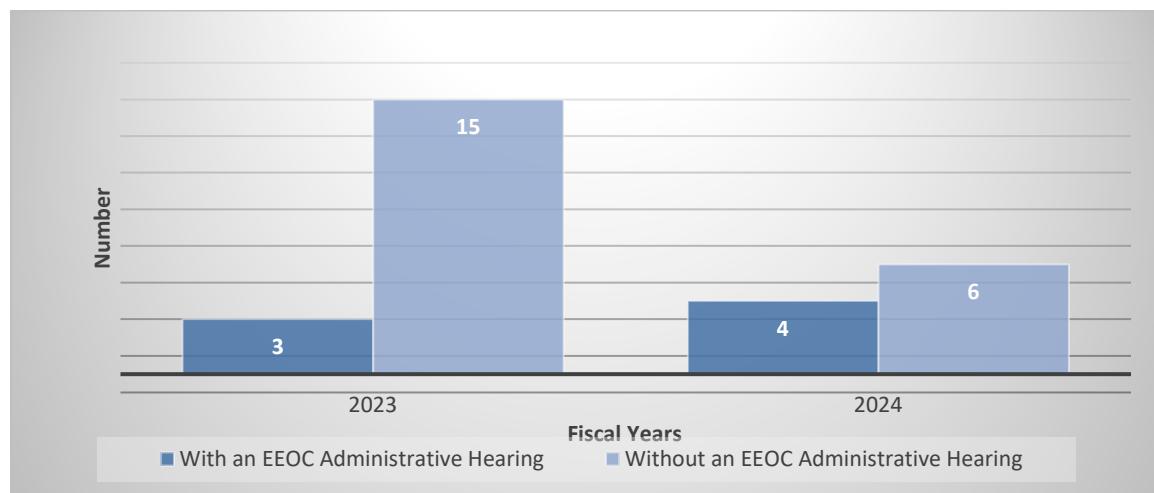
Summary of Data

Table 7 and Graph 7 show that from FYs 2023 to 2024, the number of findings of discrimination issued with an EEOC Administrative Hearing increased by one, and the number of findings without an EEOC Administrative Hearing decreased by nine in FY 2024.

Table 7
Final Agency Actions with a Finding of Discrimination

Fiscal Year	With an EEOC Administrative Hearing	Without an EEOC Administrative Hearing
2023	3	15
2024	4	6

Graph 7
Final Agency Actions with a Finding of Discrimination
FY2023 and FY2024



Section F—Analysis, Experience, and Actions

Introduction

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

(1) Causal Analysis

USDA and its sub-component agencies identified and reported in FY 2024 the following factors impacting the filing of formal EEO complaints.

- The Agricultural Research Service (ARS) reported a 23 percent decrease in the number of complaints filed in FY 2024. Specifically, 10 complaints were filed in FY 2024, compared to 13 in FY 2023. ARS attributes the decrease in the number of complaints to the promotion of trainings on No Fear, Whistleblower, Avoiding Retaliation, Employee Discipline and Misconduct, and Mirror Dialogues to increase employees' awareness of tools to maintain an open and collaborative work environment. In FY 2024, ARS' Anti-Harassment Program was established and implemented in accordance with EEOC's enforcement guidance.
- The Agricultural Marketing Service (AMS) reported a 32 percent decrease in the number of complaints filed in FY 2024. Specifically, 13 complaints were filed in FY 2024, compared to 19 in FY 2023. AMS attributes the decrease in complaints to its proactive approach to resolving employee allegations of discrimination and continuous supervisory-based training on informal and formal complaints.
- The Animal and Plant Health Inspection Service (APHIS) reported a 3 percent increase in the number of complaints filed in FY 2024. Specifically, 33 complaints were filed in FY 2024, compared to 32 in FY 2023. APHIS attributes the increase in complaints to 60 percent of the cases citing harassment (nonsexual) as an issue.
- The Office of the Assistant Secretary for Civil Rights, Conflict Complaints Division (CCD), which processes conflict cases⁵, reported a 9 percent decrease in the number of complaints filed in FY 2024. Specifically, 41 formal complaints were filed in FY 2024, compared to 45 in FY 2023. CCD attributes the decrease in complaints to the

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

collaborative efforts of Agency leaders and employees identifying and reinforcing EEO in the workplace.

- The Economic Research Service (ERS) reported no change in the number of complaints filed in FY 2024. Specifically, no complaints were filed in FYs 2024 and 2023. ERS attributes the consistency of zero complaints to ERS's Civil Rights/EEO continuous intentional training sessions and proactive approach in resolving workplace disputes.
- The Foreign Agricultural Service (FAS) reported a 20 percent increase in the number of complaints filed in FY 2024. Specifically, 6 complaints were filed in FY 2024, compared to 5 in FY 2023. FAS attributes the increase in complaints to employee allegations of reprisal and harassment (non-sexual), and allegations of discrimination based on race, color, and age.
- The Farm Production and Conservation (FPAC) – Business Center (BC) reported no change in the percentage in the number of complaints filed in FY 2024. Specifically, 4 complaints were filed in FY 2024, compared to 4 in FY 2023. The BC attributes the static number of complaints filed to their hosting EEO/Alternative Dispute Resolution trainings for the entire workforce and introducing Civil Treatment Training for Managers as a supplement for existing EEO training.
- The FPAC – Farm Service Agency (FSA) reported a 31 percent increase in the number of formal complaints in FY 2024. Specifically, 21 complaints were filed in FY 2024, compared to 16 in FY 2023. FSA attributes the increase in complaints to employees citing harassment (non-sexual) as the highest claims.
- The FPAC – Natural Resources Conservation Service (NRCS) reported a 75 percent increase in the number of complaints filed in FY 2024. Specifically, 21 complaints were filed in FY 2024, compared to 12 in FY 2023. NRCS attributes the increase in complaints to the lack of emphasis on early intervention and addressing conflicts at the lowest possible level.
- The FPAC – Risk Management Agency (RMA) reported a 50 percent decrease in the number of complaints filed in FY 2024. Specifically, 1 complaint was filed in FY 2024, compared to 2 in FY 2023. RMA attributes the decrease in complaints to the collaborative meetings held with Civil Rights and EEO Division on employment and actions taken by agency leadership to maintain a Model EEO through discussions on best practices.
- The Food Nutrition and Consumer Service (FNCS) reported a 22 percent decrease in the number of complaints filed in FY 2024. Specifically, 14 complaints were filed in FY 2024, compared to 18 in FY 2023. FNCS attributes the decrease in complaints to its phased approach in returning employees to the physical workplace and to FNCS's continuous efforts to offer supplemental online training sessions for managers and employees to help them understand EEO issues, responsibilities, and the EEO complaint filing process.

- The Forest Service (FS) reported a 30 percent increase in the number of complaints filed in FY 2024. Specifically, 87 complaints were filed in FY 2024, compared to 67 in FY 2023. FS attributes the 30 percent increase to an increase in employee allegations of reprisal, harassment (non-sexual), other terms/condition of employment, and termination and allegations of discrimination based on disability, sex and race.
- The Food Safety and Inspection Service (FSIS) reported a 68 percent increase in the number of complaints filed in FY 2024. Specifically, 69 complaints were filed in FY 2024, compared to 41 in FY 2023. FSIS attributes the increase in complaints to the number of employees who were removed from disciplinary actions and alleged harassment as well as employees who initiated complaints based upon actions taken against them for not passing an agency-wide mandatory Inspection Method Training.
- The National Agricultural Statistics Service (NASS) reported a 1 case increase in the number of complaints filed in FY 2024. Specifically, 1 complaint was filed in FY 2024, compared to no complaints in FY 2023. NASS attributes the increase in complaints to employees' awareness in complaint prevention through EEO complaint process training.
- The National Institute of Food and Agriculture (NIFA) reported a 1 case increase in the number of complaints filed in FY 2024. Specifically, 1 complaint was filed in FY 2024, compared to no complaints in FY 2023. NIFA attributes the increase to strengthening transparency in management workplace practices and early conflict resolution techniques in resolving and decreasing complaint activity.
- The Rural Development (RD) reported a 24 percent increase in the number of complaints filed in FY 2024. Specifically, 26 complaints were filed in FY 2024, compared to 21 in FY 2023. RD attributes the increase in complaints to changes made in the RD Civil Right Office as well as employee allegations of discrimination based upon reprisal, race, sex and disability.
- The OCFO reported no change in the number of complaints filed in FY 2024. Specifically, 10 complaints were filed in FY 2024, compared to 10 in FY 2023. OCFO attributes the static number of complaints to the EEO/Civil Rights office efficiency in Counseling, facilitating discussions where appropriate, with Agency Resolving Officials to prevent complaints escalating through the EEO process. Additionally, building employee relationships within the Agency by focusing on educating staff on anti-harassment and retaliatory actions or behaviors that limit effective communication. Also, OCFO counselor continued engagement with participants about difficult but crucial conversations to benefit the parties in determining what resolution serves an amenable and achievable outcome towards conflict prevention.

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

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

- Distributing information to agency employees in reference to EEO via webinars helped to provide knowledge regarding the EEO process;
- Focusing resources on training and prevention in the areas of reprisal, disability, age, race, and sex-based discrimination as well as anti-harassment assisted in proactively addressing and offering intervention for resolution of workforce issues;
- Engaging all parties early when disputes arise has proven effective in improving the resolution of both informal and formal EEO complaints;
- Encouraging management and agency personnel to participate in EEO trainings and dispute resolution processes fosters a more receptive and collaborative environment, leading to better outcomes;
- Listening and providing support to employees and management helped in diffusing tense situations before escalating into complaints;
- Holding on-going training helped supervisors ensure work environments remain free from disparate actions and harassing behaviors that result in complaints;
- Continuing discussions with management about the need to be proactive by addressing alleged discriminatory behavior during regular staff meetings and town hall sessions; and
- Providing managers and supervisors with training on their roles and responsibilities once employees file EEO complaints helped to avoid actions that could be perceived as retaliation or reprisal.

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

USDA has taken several actions that have proven effective in improving its formal EEO complaint processing. These past actions include the following:

- Training employees and supervisors regarding EEO and Civil Rights in person and via webinars;
- Providing training forums, briefings, and focus groups for new employees and supervisors as a proactive preventive measure in combating anti-discrimination, Anti-Harassment; and conflict resolution;

- Conducting frequent meetings with Agency Directors, OASCR, Civil Rights Directors, EEOC and Office of General Counsel (OGC) to share insight on best practices, leverage result of annual EEO reports and data, address relevant employee issues that drive program complaints and trends of barriers to communication and employee engagement;
- Hosting a 3-day virtual training event for employees that featured internal and external speakers and presenters on topics such as professionalism and conflict resolution;
- Communicating with senior leadership on EEO data trends, statistics, and barrier analysis, to ensure leaders are informed on the state of the Agency regarding Civil Rights concerns;
- Collaborating with the University of Delaware's Cooperative Extension program and supporting programs throughout the year in partnership with the Office of Civil Rights;
- Working collaboratively with experts such as the OGC, and external trainers (from oversight agencies like EEOC and the United States Department of Justice) to provide supplemental training offerings to employees;
- Engaging in focused, multi-pronged, and nationwide outreach efforts to educate, raise awareness, and inform all employees and supervisors about the wide array of Civil Rights resources, along with up-to-date information about EEO laws, rules, practices, and regulations;
- Holding meetings with agency heads (or their designee), administrators, and state directors to discuss complaint activity, identify trends, and evaluate the possibility of early resolution of complaints;
- Identifying opportunities to implement prevention and dispute management activities to foster engagement among staff and repair relationships at the earliest stage to minimize litigation;
- Providing refresher training to resolving officials by incorporating DR 4300-010, "*Civil Rights Accountability Policy and Procedures*," to ensure appropriate disciplinary or corrective actions are taken when discrimination, retaliation, civil rights violations, harassment, or related misconduct occur; and
- Working with the agency's Advisory Council, and focus groups on topics that impact employees, such as professional growth and development, satisfaction, engagement, and improvements to the workplace.

USDA is also introducing new initiatives to reduce complaints in future years. USDA plans to take the following actions:

- Offering supplemental training sessions in FY 2025 on topics including the EEO Process, Reasonable Accommodations, Retaliation, Harassment, Workplace Violence and Hostile Work Environment claims;
- Meeting with the Agency's senior management annually to provide a briefing on the Agency's EEO/CR programs;
- Capturing data from employee exit interviews to offer insight and opportunities to build on and reinforce the essential elements of a Model EEO Program as it relates to employee issues in program complaints;
- Developing and implementing improvements in all areas including focusing on recruitment, hiring, retention, development, and advancement for all employees;
- Reaffirming and disseminating the Secretary's EEO policy and Strategic Plan;
- Emphasizing the commitment to build and advance a culture of excellence;
- Proposing a more comprehensive training to incoming state directors, managers and supervisors to ensure they have an in-depth understanding of civil rights laws with the goal to address EEO concerns, improve management responsibilities, and develop and increased awareness of conflict resolution strategies;
- Training management personnel and agency staff on issues such as: anti-harassment; anti-retaliation; avoiding EEO claims; per se reprisal; roles, rights and responsibilities of Record Management Officers, Resolving Officials and Aggrieved Parties in the EEO process;
- Maintaining a presence in Leadership meetings to provide advice on compliance, accountability and conflict resolution where issues of discrimination arise; and
- Working closely with Human Resources to use exit interviews as a resource and tool to improve employee experience, effective conversations and leverage employee engagement opportunities.

PART II:
USDA Reimbursement to
Judgment Fund for
Fiscal Year 2024

USDA Reimbursement to Judgment Fund for Fiscal Year 2024

Introduction

Table 8 below provides information on reimbursements by USDA to the U.S. Department of Treasury's Judgment Fund for monies associated with FY 2024 judgments, awards, or settlements under the statutes addressed in the No FEAR Act.

Table 8
USDA Reimbursement to Judgment Fund for FY 2023 and FY 2024 Settlements

USDA Reimbursement to Judgment Fund for FY 2022 and FY 2023 Settlements				
FY 2023			FY 2024	
Case	Total Amount	Attorney's Fees	Total Amount	Attorney's Fees
1	\$99,000.00	-	-	-
2	\$85,207.00	-	-	-
3	\$40,000.00	-	-	-
4	\$25,000.00	-	-	-
5	\$15,000.00	-	-	-
6	\$2,500.00	-	-	-
7	-	-	-	-
8	-	-	-	-
9	-	-	-	-
Total	\$266,707.00	\$0.00	\$0.00	\$0.00

*Data Source: OCFO reviewing data in the Treasury Judgment fund payment search <https://fiscalcrm.my.site.com/jfpaymentsearch/s/> to identify No FEAR cases.

Summary

In FY 2024, USDA reimbursed \$0.00 to the Judgment Fund, of which \$0.00 was identified as payment for attorney's fees. This total amount spent in FY 2024 is decreased by \$266,707.00 reimbursed to the Judgment Fund, of which \$0.00 was for attorney's fees.

PART III:

**USDA Disciplinary Actions and Reports
for Fiscal Years 2023 – 2024**

USDA Disciplinary Actions and Reports for Fiscal Years 2023–2024

Summary of Data

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

Table 9
Administrative Disciplinary Actions⁶

TYPE OF ACTION	FY 2023						FY 2024					
	DISC.	RET.	HAR.	PPP	WBP	TOTAL	DISC.	RET.	HAR.	PPP	WBP	TOTAL
REMOVAL	0	0	1	0	0	1	0	0	1	0	0	1
15 DAY OR MORE	0	0	0	0	0	0	0	0	0	0	0	0
14 DAY OR LESS	1	0	0	0	0	1	0	0	0	0	0	0
REDUCTION IN GRADE	0	0	0	0	0	0	0	0	0	0	0	0
REDUCTION IN PAY	0	0	0	0	0	0	0	0	0	0	0	0
LOR	2	1	0	0	0	3	1	0	2	0	0	3
TOTAL DISCIPLINE	3	1	1	0	0	5	1	0	3	0	0	4

PART 2: Table 10 below illustrates the number of complaints referred to the OSC Whistleblower cases.

Table 10
Office Of Special Counsel (OSC) Cases

CATEGORIES OF CASES	FY 2023	FY 2024	FY 2024 TOTAL
OSC Whistleblower Case	56	71	71
OSC Whistleblower Case Closed	0	0	0

*Data Source: OIG

The increase in FY 2024 whistleblower complaint referrals is attributed to increased whistleblower protection educational initiatives, which began in FY 2022 and continued in FY 2024, these trainings appear to have an on-going impact, resulting in the FY 2024 rise of whistleblower retaliation referrals to OSC.

⁶ Table Abbreviations: Disc. = Discrimination; Ret. = Retaliation; Har. = Harassment; PPP = Prohibited Personnel Practice; WBP = Whistleblower Protection Act; and LOR = Letter of Reprimand.

PART IV:
USDA Federal Court Litigation Statistics
for Fiscal Year 2024

Tables 11, 12, and 13 below provide composite data for cases in Federal Court pending or resolved in FY 2024 and arising under the anti-discrimination and whistleblower protection laws.

Table 11
Federal Cases Pending in FY 2024

Pending District Court Cases	36
Pending Appellate Court Cases	8
New Cases Filed in District Court	28

Note: Cases pending at any time during the year, including those filed and those in pendency during the year.

Table 12
Pending Cases

	29 U.S.C. §206(d) Equal Pay	29 U.S.C. §631/633a Age	42 U.S.C. §2000ff-1 Genetic Info	29 U.S.C. §791 Disability	42 U.S.C. §2000e-16 Title V11
Disposed of in FY 2024	0	3	0	14	22
Pending at End of FY 2024	1	12	1	18	34

Table 13
Disposition of Cases
(Including Dismissals)

	29 U.S.C. §206(d) Equal Pay	29 U.S.C. §631/633a Age	42 U.S.C. §2000ff-1 Genetic Info	29 U.S.C. §791 Disability	42 U.S.C. §2000e-16 Title V11
Settlements	0	0	0	2	3
Withdrawals	0	0	0	2	1
Final Judgment for Plaintiff	0	0	0	0	1
Final Judgment for Agency	0	3	0	10	17
Total Cases Disposed of in FY 2024			27		

NOTES ON CASES WITH MULTIPLE BASES ALLEGED

1. Of the cases handled by OGC involving the Federal Antidiscrimination Laws covered by the No FEAR Act, approximately **76 percent** of those cases involve claims of discrimination on multiple bases (e.g., Sex, Race) and/or under multiple statutes (e.g., Title VII, ADEA). **(51 of 67 total)**

2. Of the cases handled by OGC involving the Federal Antidiscrimination Laws covered by the No FEAR Act, approximately **57 percent** of those cases also included a claim of reprisal/retaliation. **(38 of 67 total)**

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

Equal Employment Opportunity Data Posted Pursuant to the No FEAR Act

FY 2024 for period ending September 30, 2024⁷

Complaint Activity					
	2020	2021	2022	2023	2024
Number of Complaints Filed	394	342	264	308	392
Number of Complainants	381	323	256	295	361
Repeat Filers	11	17	8	13	28
Complaints by Basis					
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2020	2021	2022	2023	2024
Race	170	142	86	125	158
Color	59	52	35	50	64
Religion	18	16	35	33	34
Reprisal	224	162	122	175	234
Sex	168	111	79	115	154

⁷ Previous FY numbers remain the same as what was reported in the FY 2023 No FEAR Act Report for consistency. Variances between the newly run reports and historical data presented in prior years' reports are due to "drift", *i.e.* the effect of processing which occurred between the time said reports were generated.

PDA	3	3	1	2	4
National Origin	46	41	20	45	66
Equal Pay Act	6	6	4	9	4

Age	144	96	69	95	123
Disability	140	103	122	131	158
Genetics	3	2	5	5	3
Non-EEO	38	29	21	41	47
Complaints by Issue					
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed. ⁸</i>	2020	2021	2022	2023	2024
Appointment/Hire	31	26	11	18	26
Assignment of Duties	58	34	11	0	0
Awards	7	7	4	6	13
Conversion to Full Time/Permanent Status	0	0	0	0	0

⁸ Starting in FY2022, issues marked with:

* are reported under Other Terms / Conditions of Employment.

** are reported under Other Disciplinary Actions.

The reporting of Reassignment Claims has been changed from two separate Denied and Directed rows to one combined row: the first row now accommodates both "Reassignment: Denied/Directed" and the second row has been deprecated for the current FY starting in FY2023.

Demotion	4	0	1	1	1
Reprimand **	0	14	0	0	0
Suspension	0	19	15	19	25
Removal	29	7	9	17	14
Other **	5	0	23	55	83
Duty Hours	0	5	0	0	0
Performance Evaluation/Appraisal	0	44	26	29	34
Examination/Test	0	2	0	0	0
Harassment					
Non-Sexual	0	146	122	189	245
Sexual	0	5	11	10	16
Medical Examination	0	0	1	1	2
Pay, including Overtime	0	4	4	23	25
Promotion/Non-Selection	82	68	48	55	87
Reassignment					
Denied	8	11	4	9	17
Directed	16	19	3	17	25
Reasonable Accommodation Disability	56	35	32	54	62
Reinstatement	4	1	0	0	0
Religious Accommodation	2	1	52	7	4
Retirement	5	3	0	0	0

Sex-Stereotyping	0	0	0	0	2
Telework	14	2	4	9	23
Termination	24	28	24	38	57
Terms/Conditions of Employment	58	56	0	0	0
Time and Attendance	42	27	13	37	75
Training	17	19	9	26	48
Other Terms/Condition of Employment	0	0	94	100	162
User Defined - Other 1	2	4	0	0	0
User Defined - Other 2	0	1	0	0	0
User Defined - Other 3	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0

Processing Time					
	2020	2021	2022	2023	2024
Complaints pending during fiscal year					
Average Number of Days in Investigation	207.27	157.95	156.07	161.77	165.42
Average Number of Days in Final Action	32.40	35.83	34.18	67.64	23.07
Complaint pending during fiscal year where hearing was requested					
Average Number of Days in Investigation	216.45	166.19	170.42	155.84	166.54
Average Number of Days in Final Action	25.95	18.22	19.54	45.28	10.3
Complaint pending					
Average Number of Days in Investigation	190.26	149.99	144.37	169.25	163.23

Processing Time					
	2020	2021	2022	2023	2024
Average Number of Days in Final Action	40.90	53.54	58.59	96.80	37.15

Complaints Dismissed by Agency					
	2020	2021	2022	2023	2024
Total Complaints Dismissed by Agency	46	22	37	37	49
Average Days Pending Prior to Dismissal	40	53	68	57.73	55.7
Complaints Withdrawn By Complainants					
Total Complaints Withdrawn by Complainants	46	18	19	18	15

Total Final Agency Actions Finding Discrimination										
	2020		2021		2022		2023		2024	
	#	%	#	%	#	%	#	%	#	%
Total Number Findings	10		1		10		19		10	
Without Hearing	3	30	0	0	2	20	15	83	6	60
With Hearing	7	70	1	100	8	80	3	17	4	40

<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	2020		2021		2022		2023		2024	
	#	%	#	%	#	%	#	%	#	%
Total Number Findings	10		1		10		19		10	
Race	2	20	0	0	2	20	6	32	4	40
Color	1	10	0	0	2	20	1	5	1	10
Religion	0	0	0	0	0	0	1	5	0	0
Reprisal	6	60	1	100	8	80	1	33	7	70
Sex	5	50	0	0	4	40	4	21	4	40
PDA	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	1	5	1	10
Age	0	0	0	0	2	20	4	21	3	30
Disability	2	20	1	100	4	40	8	42	5	50
Genetics	0	0	0	0	0	0	0	0	0	0
Non-EEO	1	10	0	0	0	0	1	5	2	2
Findings After Hearing	7		1		8		3		4	
Race	2	29	0	0	2	25	2	67	4	100
Color	1	14	0	0	1	13	0	0	1	25

Religion	0	0	0	0	0	0	0	0	0	0
Reprisal	5	71	1	100	6	75	1	33	3	75

Sex	5	71			2	25	0	0	2	50
PDA	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	1	25
Age	0	0	0	0	2	25	2	67	3	75
Disability	1	0	1	100	3	38	1	33	1	25
Genetics	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	1	25

Findings After Hearing	7		1		8		3		6	
Race	2	29	0	0	2	25	2	67	0	0
Color	1	14	0	0	1	13	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0
Reprisal	5	71	1	100	6	75	1	33	4	66.67

Sex	5	71			2	25	0	0	2	33.33
PDA	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	2	25	2	67	0	0
Disability	1	0	1	100	3	38	1	33	4	66.67
Genetics	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	1	16.7

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**Findings of Discrimination
Rendered by Issue**

	2020		2021		2022		2023		2024	
	#	%	#	%	#	%	#	%	#	%
Total Number Findings	10		1		10		17		10	

Appointment/Hire	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	3	30	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/ Permanent Status	0	0	0	0	0	0	0	0	0	0
Disciplinary Action										
Demotion	0	0	0	0	0	0	0	0	0	0
Reprimand	1	10	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	1	10
Removal	0	0	0	0	0	0	0	0	1	10
Other	0	0	0	0	0	0	0	0	1	10
Duty Hours	1	10	0	0	0	0	0	0	0	0
Performance Evaluation/ Appraisal	2	20	0	0	0	0	0	0	2	20
Examination/Test	0	0	0	0	0	0	0	0	0	0

Harassment										
Non-Sexual	5	50	1	100	0	0	0	0	5	50
Sexual	0	0	0	0	0	0	0	0	2	20
Medical Examination	0	0	0	0	0	0	0	0	0	0
Pay Including Overtime	1	10	0	0	0	0	0	0	0	0
Promotion/Non-Selection	1	10	0	0	0	0	0	0	3	30
Reassignment										
Denied	0	0	0	0	0	0	0	0	1	10
Directed	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation Disability	0	0	1	100	0	0	0	0	3	30
Reinstatement	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0
Telework	1	10	0	0	0	0	0	0	1	10
Termination	0	0	0	0	0	0	0	0	2	20
Terms/Conditions of Employment	3	30	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0

Training	1	10	0	0	0	0	0	0	0	0
User Defined - Other 1	0	0	0	0	0	0	0	0	1	10
User Defined - Other 2	0	0	0	0	0	0	0	0	0	0
User Defined - Other 3	0	0	0	0	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0	0	0	0	0
Findings After Hearing	2		7		0		0		4	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	2	29	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0
Demotion	0	0	0	0	0	0	0	0	0	0
Reprimand	1	14	0	0	0	0	0	0	0	00
Suspension	0	0	0	0	0	0	0	0	1	25
Removal	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
Duty Hours	1	14	0	0	0	0	0	0	0	0
Performance Evaluation/ Appraisal	2	20	0	0	0	0	0	0	1	25
Examination/Test	0	0	0	0	0	0	0	0	0	0
Non-Sexual	4	57	1	100	0	0	0	0	2	50

Sexual	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0
Pay Including Overtime	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	1	14	0	0	0	0	0	0	2	50
Denied	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation Disability	0	0	1	100	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0
Telework	1	14	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	2	29	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0
Training	1	14	0	0	0	0	0	0	0	0
User Defined - Other 1	0	0	0	0	0	0	0	0	1	25
User Defined - Other 2	0	0	0	0	0	0	0	0	0	0

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

Pay Including Overtime	1	33	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	1	17
Denied	0	0	0	0	0	0	0	0	1	17
Directed	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation Disability	0	0	0	0	0	0	0	0	3	50
Reinstatement	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0	0	0	0	0	0
Telework	0	0	0	0	0	0	0	0	1	17
Termination	0	0	0	0	0	0	0	0	2	33
Terms/Conditions of Employment	1	33	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0

Training	0	0	0	0	0	0	0	0	0	0
User Defined - Other 1	0	0	0	0	0	0	0	0	0	0
User Defined - Other 2	0	0	0	0	0	0	0	0	0	0
User Defined - Other 3	0	0	0	0	0	0	0	0	0	0
User Defined - Other 4	0	0	0	0	0	0	0	0	0	0

Pending Complaints Filed in Previous Fiscal Years by Status					
	2020	2021	2022	2023	2024
Total Complaints from Previous Fiscal Years	369	324	212	170	159
Total Complainants	328	285	181	145	142
Number Complaints Pending					
Investigation	18	18	15	15	13
ROI Issued, Pending Complainant's Action	0	1	0	0	2
Hearing	330	303	179	129	115
Final Agency Action	30	16	29	5	7
Appeal with EEOC Office of Federal Operations	351	298	380	301	325

Complaint Investigations					
	2020	2021	2022	2023	2024
Pending Complaints Where Investigations Exceed Required Time Frames	17	14	15	13	4