



# Notification and Federal Employee Anti-Discrimination and Retaliation Act of 2002 Annual Report for Fiscal Year 2021

*June 10, 2022*



Homeland  
Security

*U.S. Department of Homeland Security  
Office for Civil Rights and Civil Liberties*

# MESSAGE FROM THE OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES

June 10, 2022

I am pleased to present the U.S. Department of Homeland Security's (DHS or the Department) *Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002* (No FEAR Act) Annual Report for Fiscal Year (FY) 2021.



The No FEAR Act, Public Law 107-174, requires federal agencies be publicly accountable for violations of anti-discrimination laws and policies. Federal agencies must post quarterly and annual statistical data relating to federal sector Equal Employment Opportunity (EEO) complaints on their public website, reimburse the Judgment Fund for payments made, and notify employees and applicants for employment about their rights under the federal anti-discrimination and whistleblower laws.

This report summarizes the most significant accomplishments within the Department's EEO program. The report is a testament to the exceptional EEO professionals at the Department, whose dedication endures through all challenges. It evidences the Department's strong commitment to prevent and reduce the incidence of workplace discrimination, abide by merit system principles, provide protection from prohibited personnel practices, and promote accountability on the part of its leadership.

Pursuant to Section 203 of the No FEAR Act, this report is being provided to the following Members of Congress:

**The Honorable Patrick J. Leahy**  
President Pro Tempore, U.S. Senate

**The Honorable Gary C. Peters**  
Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs

**The Honorable Rob Portman**  
Ranking Member, U.S. Senate Committee on Homeland Security and Governmental Affairs

**The Honorable Dick Durbin**  
Chairman, U.S. Senate Committee on the Judiciary

**The Honorable Chuck Grassley**  
Ranking Member, U.S. Senate Committee on the Judiciary

**The Honorable Nancy Pelosi**  
Speaker of the House, U.S. House of Representatives

**The Honorable Bennie G. Thompson**

Chairman, U.S. House of Representatives Committee on Homeland Security

**The Honorable John Katko**

Ranking Member, U.S. House of Representatives Committee on Homeland Security

**The Honorable Jerrold Nadler**

Chairman, U.S. House of Representatives Committee on the Judiciary

**The Honorable Jim Jordan**

Ranking Member, U.S. House of Representatives Committee on the Judiciary

**The Honorable Carolyn B. Maloney**

Chairwoman, U.S. House of Representatives Committee on Oversight and Reform

**The Honorable James R. Comer**

Ranking Member, U.S. House of Representatives Committee on Oversight and Reform

Pursuant to the No FEAR Act, this report is also provided to the Chair of the U.S. Equal Employment Opportunity Commission (EEOC), the Attorney General of the United States, and the Director of the U.S. Office of Personnel Management (OPM).

The Department's Office for Civil Rights and Civil Liberties (CRCL) supports the Department's mission to secure the Nation while preserving individual liberty, fairness, and equality under the law. CRCL's mission includes leading the Department's EEO programs and promoting workforce diversity. The Department succeeds in its mission, in part, by ensuring workplace decisions are equitable, fairly implemented, and for the benefit of all employees.

The Department's EEO program continued to demonstrate a strong and collaborative partnership between CRCL and the Department's Components. FY 2021 brought several unique programmatic challenges, mostly resulting from the continued impact of the COVID-19 pandemic and the continuing resource challenges that affected all Component EEO programs. Nevertheless, the program accomplished a great deal despite those challenges.

CRCL and Component partnerships will continue to develop and strengthen the Department's anti-discrimination and whistleblowers programs into the next fiscal year and beyond. I look forward to providing information on our program successes in future reports. Please contact the Department's Office of Legislative Affairs for additional information at (202) 447-5890.

Sincerely,



Peter E. Mina

Senior Official Performing the Duties of the CRCL Officer  
Office for Civil Rights and Civil Liberties  
Department of Homeland Security



# Fiscal Year 2021 No FEAR Act Annual Report

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\*Due to the EEOC’s required formatting of the tables in Appendix 2, the tables may not be completely in compliance with Section 508 of the Rehabilitation Act. Please contact CRCL if any assistance is needed in accessing this information.

# EXECUTIVE SUMMARY

The purpose of the “Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002” (No FEAR Act), Public Law 107-174, is to reduce the incidence of workplace discrimination within the Federal Government by making agencies and departments more accountable for violations of anti-discrimination and whistleblower protection laws. Section 203 of the No FEAR Act specifically requires that each federal agency submit to certain Congressional committees and members, not later than 180 days after the end of each fiscal year, an annual report containing the following information on cases brought under federal anti-discrimination and whistleblower protection laws: complaint activity (including Federal District Court cases); resulting disciplinary actions; associated Judgment Fund reimbursements and adjustments to agency budgets to meet reimbursement requirements; and an analysis of trends, causation, and practical knowledge gained through experience. This report covers Fiscal Year (FY) 2021 (October 1, 2020 to September 30, 2021).<sup>1</sup>

Like previous years, FY 2021 presented unique challenges. A large portion of the Department’s workforce continued teleworking full time because of the COVID-19 pandemic. Plans to return to the office were again delayed as new COVID-19 variants evolved and spikes in cases exacerbated public health threats. In this report, readers will see that our EEO personnel adapted to the varying consequences of the COVID-19 pandemic to ensure that the important work we do is accomplished without a loss of the high-quality service that DHS employees expect and deserve from their EEO programs.

## *Continued Partnerships*

During FY 2021, CRCL continued its partnerships with various internal entities to promote equality, fairness, diversity, and efficiency within the Department’s workforce. Specifically, CRCL partnered with the Department’s Office of the Chief Human Capital Officer (OCHCO), the Department’s Component EEO offices, and other internal stakeholders. The CRCL Deputy Officer (Deputy Officer), who serves as the Department’s Director for EEO and Diversity, chairs the EEO Directors’ Council (the EEO Council), of which all Component EEO and Civil Rights Directors are members. The Deputy Officer is also a member of the Secretary’s Employee Engagement Executive Steering Committee, the mission of which is to identify strategies leading to improvements in employee morale throughout the Department. Throughout FY 2021, CRCL and its partners strengthened relationships through their collective efforts to continue to improve the Department’s workforce environment.

The EEO Council continued efforts to advance its FY 2020-2024 strategic plan, again aimed at achieving a unity of effort across the Department’s EEO and Diversity programs. The plan advances five goals: 1) to integrate EEO and Diversity into agency operations, 2) to develop the DHS EEO and Diversity workforce, 3) to promote voluntary resolution of workplace disputes, 4) to proactively prevent discrimination by addressing potential barriers to EEO and identifying

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<sup>1</sup> Regulations issued by the Office of Personnel Management (OPM) implementing the No FEAR Act, 5 Code of Federal Regulations Part 724, Subpart C, also require the submission of a copy of this report to the Director of OPM.

emerging issues, and 5) to optimize coordination to ensure effectiveness, efficiency, and legal compliance of Department and Component EEO and Diversity programs.

The EEO Council continued to lead working groups, staffed by EEO and Diversity practitioners from across the Department, in undertaking measurable actions in furtherance of the plan. In FY 2021, working groups developed draft proposals for new policy and updates to existing policy in the areas of EEO complaints management, anti-harassment, and professional development within the EEO and diversity career fields. It is expected that these proposals will result in important policy changes in FY 2022.

### ***EEO Complaint Program***

*Report of Investigation (ROI) Feedback Tool.* Throughout FY 2021, CRCL provided Components an objective assessment of the quality of their EEO Reports of Investigation (ROI) through the ROI Feedback Tool (Feedback Tool). Launched in FY 2016, the Feedback Tool enables CRCL to provide Components quarterly feedback on the quality (e.g., legal sufficiency, organization, documentation) of their ROIs, whether prepared by internal personnel or by contractors. Additionally, CRCL continued to disseminate aggregate information on the quality of contractor-produced ROIs within the DHS EEO program to all Components. This aggregate information continues to provide Components with a snapshot of CRCL's assessments of the quality of ROIs issued by all contract firms. This information allows Components to make strategic decisions regarding their future ROI contractual needs.

*Complaint Activity.* In FY 2021, DHS experienced an 11 percent decrease in the number of pre-complaints, during which time EEO counseling was to be completed within 30 days of an employee's initial contact, unless the employee agreed to an extension. In FY 2021, 2,000 cases were counseled, down from 2,252 cases in FY 2020. Formal complaints decreased in FY 2021 (1,121), as compared to FY 2020 (1,276). Additional information on complaint activity is provided in Section IV of this report.

*EEO Investigations.* In FY 2021, the Department experienced a 28 percent decrease in the number of investigations (850) compared to FY 2020 (1,185). The percentage of timely investigations (completed within 180 days of the filing of a formal complaint or within a regulatorily permissible extension period) also decreased – 68 percent (576) in FY 2021, compared to 79 percent (931) in FY 2020. Additionally, the Department's average number of processing days for investigations increased by 14 percent – from 239 average processing days in FY 2020 to 273 average processing days in FY 2021.

*Adjudication.* CRCL's incoming final agency decision (FAD)<sup>2</sup> workload decreased in FY 2021, with 567 requests for FADs received in FY 2021, compared to 651 requests received in FY 2020. CRCL issued 676 FADs in FY 2021, reflecting an impressive 56 percent increase from the 432 FADs issued during the prior fiscal year. CRCL's rate of timely FAD issuance increased from 17 percent (74 of 432) in FY 2020 to 19 percent (128 of 676) in FY 2021. The average processing days also increased by four percent (13 days) to 328 days, when compared to the 315 average processing days in FY 2020.

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<sup>2</sup> A FAD is a written decision on the merits of an employment discrimination complaint.



In FY 2021, DHS issued or took final action on ten findings of discrimination,<sup>3</sup> a significant decrease from the 44 findings processed in FY 2020. A more detailed explanation regarding this decrease is included in Section V of this report. In FY 2021, disability was the most frequently alleged basis on which complainants prevailed, followed by reprisal, sex, age, race, and national origin discrimination. The most frequently raised issues on which complainants prevailed were harassment (non-sexual), assignment of duties, and evaluation/appraisal.

During FY 2021, 213 civil actions filed against the Department, involving laws covered by the No FEAR Act, were pending or resolved in Federal District Court. Federal judges disposed of 63 cases, with 50 cases decided in favor of the agency, and 13 settled by the parties.

Components reported that the Department's reimbursement to the Judgment Fund for damages during FY 2021 was \$1,630,657.32. Additionally, \$159,333.75 was reimbursed to the Judgment Fund for attorney's fees. During FY 2021, six employees were disciplined for discrimination, retaliation, harassment, or other infractions of laws covered by the No FEAR Act. This information is described in Section III of this report.

## LEGISLATIVE REQUIREMENT

This document responds to the reporting requirements set forth in Section 203 of the “*Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002*,” or the “No FEAR Act” (Pub. L. No. 107-174), which states:

(a) Annual Report. — Subject to subsection (b), [(b) pertains to requirements for the first report] 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 Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and 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 (in an electronic format prescribed by the Director of the Office of Personnel Management) 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

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<sup>3</sup> The Department issued six FADs and four Final Orders (fully implementing EEOC AJ decisions) where there was a finding of discrimination. A more detailed explanation can be found in Section V of this report.

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.

Further guidance on each agency's reporting obligations is provided in 5 C.F.R. § 724.302, which also requires the submission of the annual report to the Director of OPM, for the implementation of a best practices study and the issuance of advisory guidelines.

# I. BACKGROUND

The mission of the Department is to safeguard the American people, our homeland, and our values. The Department was established through the *Homeland Security Act of 2002*, Pub. L. No. 107–296; Section 103(d)(5) of the Act provides for the presidential appointment of an Officer for Civil Rights and Civil Liberties (CRCL Officer). On October 26, 2012, the Secretary of Homeland Security issued Delegation Number 19003, which delegated to the CRCL Officer the authority to render final decisions on behalf of the Secretary in EEO complaints, pursuant to 29 C.F.R. § 1614.110, or pursuant to the Departmental EEO Complaint Procedures, when that regulation is not applicable.

CRCL, which is located within the Office of the Secretary, provides technical and policy advice to Department leadership on civil rights and civil liberties issues. The CRCL Officer, by statute, reports directly to the Secretary and assists senior leadership in shaping policy in ways that protect the civil rights and civil liberties of all persons, internal or external to DHS, who are protected by our laws. In accordance with 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL supports the Department’s mission to secure the nation while preserving individual liberty, fairness, and equality under the law. CRCL performs four key functions to integrate civil rights and civil liberties into all the Department’s missions and activities:

1. Promoting respect for civil rights and civil liberties in policy creation and implementation by advising Department leadership and personnel, and state and local partners.
2. Communicating with individuals and communities whose civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress, and promoting appropriate attention within the Department to their experiences and concerns.
3. Investigating civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel.
4. Leading the Department’s EEO programs and promoting workforce diversity and merit system principles.

To maximize its effectiveness, the Department seeks to maintain an exemplary EEO program with the goal of eliminating discrimination in the workplace. CRCL provides departmental guidance and standards for establishing and maintaining effective programs for EEO, as required under both Title VII of the *Civil Rights Act of 1964* (Title VII), 42 U.S.C. §§ 2000(e) - 2000(e-17), and Section 501 of the *Rehabilitation Act of 1973* (Rehabilitation Act), 29 U.S.C. § 791. CRCL also works to advance the anti-discrimination protections set forth under the *Age Discrimination in Employment Act of 1967* (ADEA), 29 U.S.C. §§ 621-634 (2015), the *Equal Pay Act of 1963* (EPA), 29 U.S.C. § 206 (d)(1), and the *Genetic Information Nondiscrimination Act of 2008* (GINA), 42 U.S.C. §§2000(ff)-2000(ff-11). To meet these objectives, the Deputy Officer for CRCL and the staff develop and monitor EEO and diversity program policies, plans, and guidance, deliver EEO training, conduct oversight of the Component EEO programs, adjudicate EEO complaints, and prepare and submit annual reports to stakeholders including Congress, the White House, the U.S. Department of Justice, EEOC, and OPM relating to the Department’s diversity and EEO activities.

## II. RESULTS AND DATA

### A. EEO and Whistleblower Cases Filed in Federal District Court

During FY 2021, the Department had 213 pending or resolved civil actions in Federal District Court under the laws covered in the No FEAR Act. The majority of those filings (138) arose under Title VII, followed by filings under the Rehabilitation Act (40), filings under the ADEA (28), then filings under the *Whistleblower Protection Act of 1989*, 5 U.S.C. §1201 (4) and filings under EPA (3). There were no GINA filings during FY 2021.

During FY 2021, 63 cases were disposed of in Federal District Court: 50 were decided in favor of the Department and 13 were resolved by settlement. In addition, there were 15 cases that were appealed. For further information regarding FY 2021 employment discrimination and whistleblower cases filed against the Department in Federal District Court, see Appendix 1.

### B. Reimbursements to Judgment Fund

During FY 2021, as reported by the Department's Components, the Department reimbursed a total of \$1,630,657.32 in damages to the Judgment Fund. The amount reimbursed resulted from cases filed under Title VII, the ADEA, the Rehabilitation Act, and the Whistleblower Protection Act. Reimbursements came from the following Components, in order of the largest to the smallest amount: U.S. Immigration and Customs Enforcement (ICE) - \$726,174.40, U.S. Customs and Border Protection (CBP) - \$519,482.92, U.S. Citizenship and Immigration Services (USCIS) - \$200,000, Federal Emergency Management Agency (FEMA) - \$140,000, United States Secret Service (USSS) - \$30,000, and Transportation Security Administration (TSA) - \$15,000.<sup>4</sup> In addition, \$159,333.75 was reimbursed to the Judgment Fund for attorney's fees by FEMA, ICE, and CBP, which stemmed from Title VII and Rehabilitation Act cases.

### C. Disciplinary Actions

Components retain independent authority to discipline their respective employees, including individuals found to have engaged in discriminatory, retaliatory, or harassing conduct, as set forth in findings of discrimination. As part of any relief ordered, Components were required to consider disciplinary action against any individual found responsible for discriminatory actions or conduct. During FY 2021, a total of six employees (two from TSA, two from USSS, and two from USCIS) were disciplined because of findings of discriminatory, retaliatory, or harassing conduct. The disciplinary actions resulted from violations of Title VII and the Rehabilitation Act. The breakdown is included in Figure 1 below.

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<sup>4</sup> TSA's records for reimbursement do not distinguish between payments to plaintiffs and attorney's fees.

**Figure 1: Number of Employees Disciplined in Connection with Federal Court Cases Under Section 724.302(a)(3)**

	The Rehabilitation Act
Reprimand	0
Suspension without Pay	0
Reduction in grade or pay	0
Removal	1

**Figure 2: Number of Employees Disciplined, Whether or Not in Connection with Federal Court Cases Under Section 724.302(a)(5) (i.e., Including EEO Administrative Cases)**

	Title VII	ADEA	The Rehabilitation Act
Reprimand	1	0	0
Suspension without Pay	1	1	1
Reduction in grade or pay	0	0	0
Removal	0	0	1

D. EEO Complaint Data

See Appendix 2 for the Department’s No FEAR Act data for FY 2021, which is also posted online (<http://www.dhs.gov/homeland-security-no-fear-act-reporting>).

### III. ANALYSIS OF TRENDS AND CAUSALITY

A. EEO Complaint Activity

Section 203(a)(7) of the No FEAR Act requires federal agencies to examine trends and causes behind the data in their reports over the past five years. Figure 3 shows the number of complaints filed Department-wide each year for the past five years and the variance from the prior year’s filings.

**Figure 3: Complaints Filed, FY 2016 – FY 2021**

	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>
<b>Department-wide Filings</b>	1,315	1,245	1,472	1,266	1,276	1,121
<b>Variance from prior year complaints</b>	+53	-70	+227	-206	+10	-155
<b>Department-wide Population</b>	192,866	197,593	206,449	211,421	213,653	216,015
<b>Variance in employee population from prior year</b>	+2,435	+4,727	+8,856	+4,972	+2,232	+2,362

The Department’s workforce population has steadily increased since 2016. In FY 2021, the workforce grew to 216,015, an increase of 2,362 employees from FY 2020. The FY 2021 gains reflect workforce increases at all Components, except for three: TSA, USCIS, and the United States Coast Guard (USCG). USCG reported their workforce population remained steady with the same number of employees in 2019, 2020, and 2021, while TSA and USCIS experienced a slight workforce decrease of 461 (from 61,677 in FY 2020) and 377 (from 19,406 in FY 2020) employees, respectively, in FY 2021.

While the Department’s workforce population increased in FY 2021, the Department experienced a decrease in formal EEO complaints filings in FY 2021: 1,121 compared to 1,276 in FY 2020 (155 fewer complaints filed). The formal EEO complaint filings decreased at all Components, except for FEMA which had an increase of 21 formal EEO complaint filings in FY 2021. USCIS, ICE, and TSA showed the most significant decreases in the number of formal complaints filed from FY 2020 to FY 2021. USCIS showed a 37 percent decrease in filings (88 in FY 2021 compared to 139 in FY 2020), ICE showed a 26 percent decrease in filings (136 in FY 2021 compared to 184 in FY 2020), and TSA showed a 11 percent decrease in filings (250 in FY 2021 compared to 281 in FY 2020).

#### B. Bases of Discrimination in EEO Complaints

During FY 2021, the most frequently alleged bases of discrimination in formal EEO complaints were, in order of frequency: reprisal, sex, and disability. See Figure 4.

- *Reprisal*: In FY 2021, there was a 13 percent decrease in the number of reprisal claims (594), compared to FY 2020 (681). This is lowest number of reprisal claims raised since FY 2014, when it was raised 532 times. Nonetheless, reprisal remains the most commonly alleged basis of discrimination at DHS, and government-wide, as reported by

the EEOC.<sup>5</sup> At the Department, and across the federal sector, reprisal claims are almost always joined with an underlying EEO complaint based on race, national origin, sex, etc.

- *Sex*: During FY 2021, DHS received 385 complaints alleging discrimination based on sex, including claims of lesbian, gay, bisexual, and transgender (LGBT) discrimination. Specifically, females alleging discrimination based on sex accounted for the most frequently raised basis, with 240 complaints. Males alleged discrimination based on sex in 130 complaints. LGBT claims were raised in 15 complaints. The 385 complaints raising sex discrimination in FY 2021 represent a 19 percent decrease from the 473 complaints alleging sex discrimination in FY 2020.
- *Disability*: During FY 2021, disability discrimination was alleged in 373 complaints, which is a 19 percent decrease over the prior year when disability discrimination was raised in 462 complaints. It is noted that the 373 disability discrimination claims raised is the lowest since FY 2015, when it was raised in 355 complaints.

**Figure 4: Bases of Discrimination, FY 2016 - FY 2021**

	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Reprisal</b>	667	596	735	633	681	594
<b>Sex</b>	453	476	509	460	473	402
<b>Disability</b>	379	424	477	480	462	373
<b>Race</b>	403	391	488	407	438	366
<b>Age</b>	396	386	398	366	409	335
<b>National Origin</b>	218	207	263	173	210	196
<b>Color</b>	159	181	187	146	193	139
<b>Non-Statutory</b>	74	100	90	69	91	102
<b>Religion</b>	66	57	62	53	53	61
<b>GINA</b>	7	4	6	3	6	7

### C. Issues in EEO Complaints

The most frequently raised issue in EEO complaints at DHS during FY 2021 was harassment (non-sexual).<sup>6</sup> Non-sexual harassment has been the most frequently raised issue in EEO complaints at the Department and across the federal sector as reflected in the most recent EEOC

<sup>5</sup> <https://www.eeoc.gov/sites/default/files/2021-07/2019%20Annual%20Report%20Complaints%20Tables.zip>.

<sup>6</sup> The No FEAR Act requires reporting of complaints involving sexual harassment (i.e., sex-based claims involving actionable unwelcome conduct of a sexual nature) and non-sexual harassment (i.e., claims involving actionable unwelcome conduct not of a sexual nature, e.g., based instead on race, sex, national origin, color, religion, age, disability, or reprisal).

report.<sup>7</sup> Yet concurrently, the basis of sex was the basis most frequently raised in non-sexual harassment complaints (186 complaints), and 72 percent (134) of those complaints were based on sex (female). There was an 18 percent decrease in the number of non-sexual harassment complaints between FY 2020 (658) and FY 2021 (528).

The second-most raised issue at DHS, disciplinary action, was raised in 224 complaints. This represented an eight percent increase from FY 2020, when it was raised in 207 complaints. As Figure 5, below, shows, disciplinary action has consistently been the second or third-most frequently raised issue at the Department.

The third-most frequently raised issue at DHS was assignment of duties, which was raised in 196 complaints. This represents a ten percent increase over FY 2020, when assignment of duties was raised in 178 complaints.

**Figure 5: Issues in Complaints, FY 2016 - FY 2021**

	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>
<b>Non-Sexual Harassment</b>	584	502	628	588	658	528
<b>Disciplinary Action</b>	259	304	282	228	207	224
<b>Assignment of Duties</b>	150	126	222	131	178	196
<b>Promotion/Non-Selection</b>	296	280	235	215	195	157
<b>Time and Attendance</b>	78	92	102	95	93	120

## IV. COMPLAINT PROCESSING AND ADJUDICATION DATA

### A. EEO Counseling

Department-wide, staffing challenges have continued to have an impact on completed counselings.<sup>8</sup> The staffing challenges are largely attributed to attrition. DHS experienced a 11 percent decrease in the total number of completed counselings (from 2,252 in FY 2020 to 2,000

<sup>7</sup> <https://www.eeoc.gov/sites/default/files/2021-07/2019%20Annual%20Report%20Complaints%20Tables.zip>.

<sup>8</sup> In accordance with 29 C.F.R. § 1614.105(d), counseling of an informal EEO complaint (also referred to as a pre-complaint) must be completed within 30 calendar days, unless the aggrieved person agrees to extend the counseling period up to an additional 60 calendar days.



in FY 2021) with a 3 percent increase in the number of timely completed counselings (95 percent in FY 2020 to 98 percent in FY 2021). This is the third fiscal year with a decrease in the number of completed counselings. In FY 2020, there was a 4 percent decrease from 2019 (2,339 to 2,252) and a 13 percent decrease from FY 2018 to FY 2019 (2,685 to 2,339). See Figure 6.

Four Components had a 100 percent timely rate for completed counseling: USCG, CBP, USSS, and the Federal Law Enforcement Training Centers (FLETC). Notably, for the last three fiscal years, USCG has remained at 100 percent and both CBP and USSS timely completed 100 percent of their counselings for the last two fiscal years.

FEMA has shown a marked increase in their number of completed counselings (258 in FY 2021 from 238 in FY 2020). FEMA also showed an increase in their percentage of timely-completed counseling (76 percent in FY 2020 to 90 percent in FY 2021).

USCIS and TSA remained steady with timely completed counselings for the last two fiscal years at 99 and 98 percent respectively while the total number of completed counselings decreased for both USCIS (from 222 in FY 2020 to 160 in FY 2021) and TSA (from 532 in FY 2020 to 464 in FY 2021). ICE experienced a decrease in completed counselings (from 282 in FY 2020 to 228 in FY 2021) but an increase in timely completed counselings (85 percent in FY 2020 to 98 percent in FY 2021); and the DHS Headquarters EEO Office (HQ EEO)<sup>9</sup> experienced a decrease in completed counselings (from 142 in FY 2020 to 116 in FY 2021) while their timely completed counselings remained steady at 99 percent.

**Figure 6: EEO Counseling at the Department, FY 2016 – FY 2021**

	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>
<b>Total Number Completed</b>	2,510	2,517	2,685	2,339	2,252	2,000
<b>Timely Number</b>	2,253	2,387	2,587	2,141	2,140	1,959
<b>Percentage Timely</b>	90	95	96	92	95	98

#### B. EEO Investigations

Like EEO counselings, EEO investigations are completed at the Component level. In accordance with 29 C.F.R. § 1614.108(e), an investigation must be completed within 180 calendar days, unless the complainant and the respondent agency voluntarily extend the time period (for not more than an additional 90 days), the respondent agency unilaterally extends the time period or any period of extension for not more than 30 days where it must sanitize a complaint file that contains classified information, or the complaint is amended. The following

<sup>9</sup> HQ EEO is providing the EEO services related to complaints processing and disability reasonable accommodations services to the Cybersecurity and Infrastructure Agency (CISA) until CISA’s EEO office is fully operational. All data for HQ EEO includes CISA.

compares the number of formal complaints filed Department-wide to the number of EEO investigations completed, and to those that were timely completed.<sup>10</sup>

In FY 2021, 850 investigations were completed Department-wide, which is a notable decrease – 28 percent - from the number of investigations completed in FY 2020 (1,185). The number of timely completed investigations also decreased in FY 2021, to 576 (68 percent) from 931 (79 percent) in FY 2020. Additionally, the average number of days to complete an investigation increased from 239 days in FY 2020 to 273 days in FY 2021. As with EEO counselings, Department-wide, staffing challenges have continued to have an impact on timely completed investigations.

In the area of EEO investigations, most Components showed a decrease in the number of completed and timely investigations. However, one Component showed improvements in these areas. Notably, FEMA completed 150 investigations, 45 more than in FY 2020, and FEMA’s timeliness rate for completed investigations improved from 29 percent (30 of 105) in FY 2020 to 47 percent (70 of 150) in FY 2021. Additionally, FEMA’s average processing days to complete their investigations decreased from 457 days in FY 2020 to 338 days in FY 2021. See Figure 7.

**Figure 7: EEO Investigations at the Department, FY 2016 – FY 2021**

	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Total Formal Complaints Filed<sup>11</sup></b>	1,315	1,245	1,472	1,266	1,276	1,121
<b>Total Completed Investigations</b>	1,122	1,135	1,179	1,177	1,185	850
<b>Timely Investigations</b>	522	812	840	768	931	576
<b>Percentage Timely</b>	47	72	71	65	79	68
<b>Average Days</b>	296	238	271	291	239	273

Other notable information regarding Components’ FY 2021 investigation data includes:

- Three Components - FLETC, USCG, and USCIS - timely completed 100 percent of their EEO investigations. FLETC and USCG’s average number of days to complete the EEO investigation was within the 180-day regulatory timeframe. In FY 2021, USCG’s average number of days was 114, and FLETC’s average number of days was 148 days.

<sup>10</sup> Complaints filed in one fiscal year may not always be investigated in the same fiscal year.

<sup>11</sup> Investigations are not completed for all formal complaints; some complaints are procedurally dismissed without an investigation (See Section IV.C, below), and other cases may be settled or withdrawn before an investigation is completed.

- Two additional Components timely completed their EEO investigations at rates of 85 percent or above: TSA (93 percent) and USSS (86 percent). Notably, USSS’s timely percentage rate increased to 86 percent in FY 2021 from 50 percent in FY 2020.
- Three Components - ICE, TSA, and CBP - experienced decreases in the total number of completed investigations. ICE’s total completed investigations decreased from 154 in FY 2020 to 122 in FY 2021, but their rate of timely completed investigations increased from 34 percent in FY 2020 to 55 percent in FY 2021. TSA’s and CBP’s total completed investigations dropped considerably this fiscal year. TSA’s completed investigations decreased from 390 in FY 2020 to 191 in FY 2021, and CBP’s completed investigations decreased from 290 in FY 2020 to 149 in FY 2021.

C. Procedural Dismissals

An agency may procedurally dismiss an EEO complaint for one of several reasons, including, but not limited to: failure to state a claim, untimely initial contact with an EEO counselor, filing the identical claim in Federal District Court, or failure to provide necessary information to the agency. See 29 C.F.R. § 1614.107(a). At DHS, Components send CRCL requests for procedural dismissal of complaints that, based on Components’ review, meet the appropriate regulatory criteria; CRCL then reviews the record and makes a final determination to dismiss the matter, or return the case to the Component for investigation.

In FY 2021, there was a 25 percent decrease (82) in the number of procedural dismissals issued by CRCL, when compared to FY 2020 (110). It is noted that the incoming number of requests for procedural dismissals were lower in FY 2021 (104) compared to the 136 requests for procedural dismissal received in FY 2020. CRCL’s average processing days in FY 2021 for procedural dismissals was 233 days, which is a 63-day decrease from the average processing days of dismissals in FY 2020 (296). The average processing days in FY 2021, represents a number closer to the average processing days in FY 2016 and FY 2017. See Figure 8.

**Figure 8: Procedural Dismissals, FY 2016 – FY 2021**

	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>
<b>Total Number</b>	61	111	186	97	110	82
<b>Average Number of Processing Days</b>	206	211	163	199	296	233

D. Findings of Discrimination

At DHS, findings of discrimination in the federal administrative EEO process result from either a merit FAD issued by CRCL<sup>12</sup> or a decision by an EEOC Administrative Judge (AJ) when the

<sup>12</sup> Further discussion of merit FADs can be found in Section VI of this report.

complainant elects a hearing. When an AJ issues a decision on the merits of a complaint, CRCL is required to take final action by issuing a Final Order on behalf of DHS within 40 days of the AJ's decision. The Final Order must notify the complainant whether the agency intends to fully implement the AJ's decision or file an appeal with EEOC's Office of Federal Operations (OFO).

The following tally of the Department's findings of discrimination from FY 2016 to FY 2021 illustrates the protected bases upon which the findings were made, and the specific issues involved in the findings during this period.

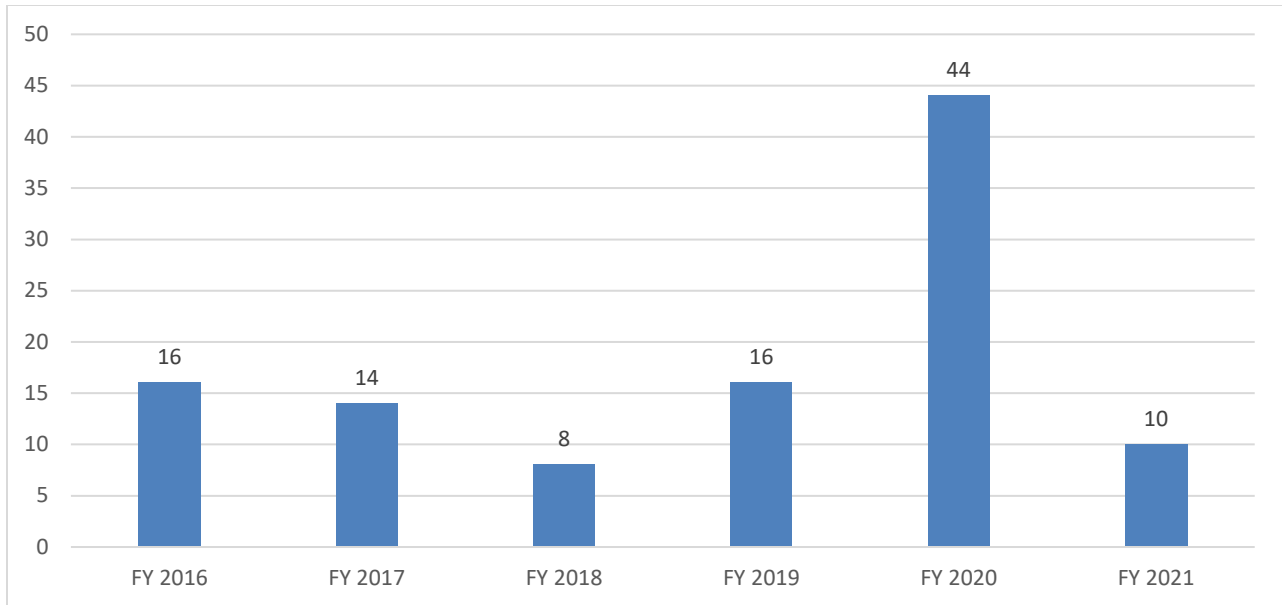
As shown in Figure 9, below, from FY 2016 to FY 2021, the Department processed 108 findings of discrimination through the issuance of merit FADs or Final Orders. In FY 2021, the Department issued 1,145 merit FADs and Final Orders, ten of which resulted in a finding of discrimination. The discriminatory conduct in these cases dates from 2012, and from 2016-2018. These cases included six merit FADs issued by CRCL and four EEOC AJ decisions that the Department fully implemented by Final Orders. The ten findings in FY 2021 represents a significant decrease from the 44 findings in FY 2020; however, it is more comparable with the number of findings in FY 2016, 2017, 2018, and 2019.

Notably, the ten findings in FY 2021 represents just one percent of merit FADs and Final Orders (1,145) the Department issued in FY 2021. This is lower than the five percent of findings (44 of 893) made in FY 2020. In addition, the Department's FY 2021 finding rate is lower than the government-wide percentage of findings of discrimination in FY 2019, which was two percent (175 findings).<sup>13</sup> While the number of findings at DHS in FY 2021 reflects a small percentage of the Department's overall complaint inventory, such findings receive significant attention from CRCL and Component leadership.

**Figure 9: Complaints with Findings, FY 2016 – FY 2021**

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<sup>13</sup> <https://www.eeoc.gov/sites/default/files/2021-07/2019%20Annual%20Report%20Complaints%20Tables.zip>.

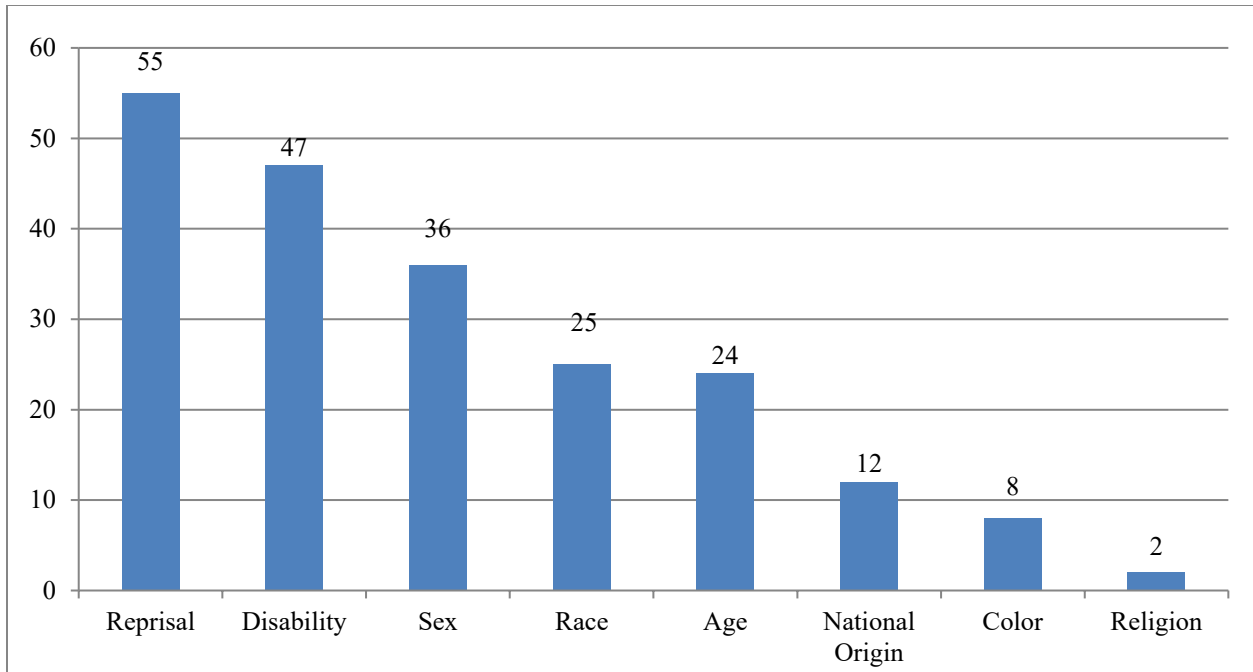


### 1. Protected Bases

In FY 2021, findings of discrimination were issued on the bases of disability (5), reprisal (3), sex (3), age (1), race (1), and national origin (1). In previous years, the greatest number of findings were based on reprisal; however, for the first time, disability discrimination accounted for the greatest number of findings in FY 2021. The number of findings issued in FY 2021 is lower than the number of findings in FY 2020, so it follows that the number of bases upon which those findings were made in FY 2021 would be lower. It is important to note that the total number of bases within findings of discrimination may exceed the total number of findings issued because one decision may find discrimination on more than one basis. There does not appear to be any significant trends.

A comprehensive look at the number of findings by basis for the period from FY 2016 to FY 2021 is shown in Figure 10.

**Figure 10: Total Findings by Basis, FY 2016 – FY 2021**



## 2. Issues

Consistent with previous years, the FY 2021 findings of discrimination involved complaints raising a myriad of issues, with no discernable pattern or trend. As indicated in Figure 11 below, the ten findings of discrimination in FY 2021 involved the following seven issues: 1) Assignment of Duties; 2) Disciplinary Action; 3) Harassment (non-sexual); 4) Reasonable Accommodation; 5) Termination; 6) Terms/Conditions of Employment; and 7) Time and Attendance. As indicated above, the number of findings issued in FY 2021 is lower than the number of findings in FY 2020, so it follows that the number of issues raised in those findings would be lower than the previous year. As with protected bases, the total number of issues within the findings of discrimination may exceed the total number of findings issued, given that one decision may find discrimination regarding multiple issues. In FY 2021, there were decreases in the number of issues raised from prior years; however, these decreases do not appear to signify any particular trend. See Figure 11.

**Figure 11: Findings by Issue, FY 2016 – FY 2021**

	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>Total</i>
<b>Appointment/hire</b>	0	0	0	1	2	0	3
<b>Assignment of duties</b>	3	9	1	1	11	2	27
<b>Awards</b>	1	0	0	0	2	0	3
<b>Disciplinary action</b>	1	0	2	4	8	2	17
<b>Duty hours</b>	0	0	0	0	0	0	0
<b>Evaluation/appraisal</b>	0	0	2	8	13	0	23

<b>Examination/test</b>	0	2	0	0	0	0	2
<b>Harassment (non-sexual)</b>	10	11	6	11	46	4	88
<b>Harassment (sexual)</b>	3	0	0	0	4	0	7
<b>Medical Examination</b>	0	2	3	0	2	0	7
<b>Non-selection/non-promotion</b>	4	2	1	3	15	0	25
<b>Pay/overtime</b>	0	1	0	0	0	0	1
<b>Reasonable accommodation</b>	2	2	0	1	7	3	15
<b>Reassignment</b>	1	0	0	3	15	0	19
<b>Telework</b>	0	0	0	0	2	0	2
<b>Termination</b>	0	0	0	1	3	1	5
<b>Terms/conditions of employment</b>	0	4	3	7	6	1	21
<b>Time and Attendance</b>	0	0	2	0	1	4	7
<b>Training</b>	0	0	0	0	1	0	1

## V. PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE, AND ACTIONS PLANNED OR TAKEN TO IMPROVE THE COMPLAINTS AND CIVIL RIGHTS PROGRAM

### A. Improvements in the Department’s EEO Program

During FY 2021, the Department continued to capitalize on program enhancements started in previous fiscal years and implemented new initiatives. CRCL broadened its collaborative work with the Department’s EEO Directors and Component EEO offices in several areas.

#### 1. Advancing Joint Opportunity Initiatives Through Implementation of the EEO and Diversity Program’s Strategic Plan

The EEO Council continued in its efforts to advance the Council’s FY 2020-2024 strategic plan, again aimed at achieving a unity of effort across the Department’s EEO and Diversity programs. The strategic plan advances five goals: 1) integrate EEO and Diversity into agency operations, 2) develop the DHS EEO and Diversity workforce, 3) promote voluntary resolution of workplace disputes, 4) proactively prevent discrimination by addressing potential barriers to EEO identifying emerging issues, and 5) optimize coordination to ensure effectiveness, efficiency, and legal compliance of Department and Component EEO and Diversity programs.

The EEO Council continued to lead working groups, staffed by EEO and Diversity practitioners from across the Department, in undertaking measurable actions in furtherance of the strategic plan. In FY 2021, working groups developed draft proposals for new policy and updates to existing policy in the areas of EEO complaints management, anti-harassment, and professional development within the EEO and diversity career fields. It is expected that these proposals will result in important policy changes in FY 2022.

During FY 2021, the DHS-HQ Anti-Harassment Unit (AHU) started off the year with 67 complaints in its inventory, and they received 69 new complaints during the year. By the end of FY 2021, the AHU had closed 101 cases, which is a substantial increase from 48 cases closed in FY 2020. This increase is attributed to additional staffing resources the AHU received in FY 2021.

During FY 2021, the Alternative Dispute Resolution (ADR) section received 356 requests for mediation, which is a 51 percent increase from the 235 requests received in FY 2020. This increase included an increase in mediation requests from HQ. HQ had 20 mediation requests in FY 2020, and they had 38 requests in FY 2021. As a result of mediations across the Department, there were 82 settlements in FY 2020, compared to 51 settlements in FY 2021. While the precise cause of the increase in mediation requests is unknown, this increase is an indication that more individuals are recognizing mediation as a viable option to address and resolve workplace disputes. Moreover, the FY 2021 settlement numbers are comparable to the settlement numbers in FY 2019, when it was 49. The ADR section also held two new mediator courses, adding 48 mediators to the shared neutrals roster and bringing the total of collateral duty mediators to 102. Finally, the ADR section hosted two mandatory refresher trainings for the mediators who were already on the shared neutrals roster.

**Figure 12: FY 2021 Mediations Conducted by Shared Neutrals**

	<b>Number of Times Used Shared Neutrals</b>	<b>Settlements</b>
<b>USCIS</b>	46	7
<b>CBP</b>	134	29
<b>FEMA</b>	29	3
<b>USCG<sup>14</sup></b>	-	-
<b>ICE<sup>15</sup></b>	5	2
<b>TSA</b>	1	0
<b>FLETC</b>	3	0
<b>HQ EEO</b>	38	10

<sup>14</sup> USCG and USSS do not utilize the Shared Neutrals roster as part of their ADR programs.

<sup>15</sup> ICE and TSA primarily use contractors to provide mediation services for their ADR programs.



<b>USSS</b>	-	-
<b>TOTAL</b>	256	51

## 2. Collaborating and Leading the Department’s Components

In addition to the EEO Directors’ Council’s monthly meetings, throughout FY 2021, CRCL led quarterly meetings with the Component EEO Complaint Managers, providing opportunities for Components’ input on agenda topics and encouraging and facilitating discussions. This regular collaboration between CRCL and Components proved key in strengthening relationships and enabling managers within this community to share challenges and provide input on solutions and best practices.

CRCL’s EEO compliance program monitors Components’ implementation of remedial relief that was ordered in findings of discrimination, and reports compliance progress to the EEOC for EEOC-issued decisions in which discrimination was found. During FY 2021, CRCL updated its compliance templates in accordance with the Elijah E. Cummings Federal Employee Antidiscrimination Act (FEAA) Addendum and distributed them to all DHS Component Compliance officers. In addition, CRCL continues its collaboration with the EEOC’s Compliance Officer, fostering an effective working relationship while focusing on the Department’s oldest cases pending full implementation.

During FY 2021, CRCL also provided quarterly feedback to DHS Components on the quality of their Reports of Investigation (ROI) using an ROI Feedback Tool (Tool).<sup>16</sup> Analysts assigned numerical ratings for several criteria related to legal sufficiency and readability and provided narrative information if needed to further explain numerical ratings. Component EEO Offices use the feedback as an additional method to assess the quality of their ROIs. The Tool has proven to be an effective way for CRCL to partner with Components to improve the quality of ROIs across DHS. Since the Tool’s inception, DHS Component Complaint Managers have welcomed the thorough feedback and detailed comments they have received and have offered their own suggestions for improvement. The Complaint Managers share the feedback with their staff members and contractors as an objective improvement mechanism.

CRCL is required to vet DHS employees nominated to receive certain high-level awards from DHS leadership. The vetting consists of a review of EEO complaint histories to ensure there is no disqualifying information on the nominees, including having engaged in discriminatory conduct. During FY 2021, CRCL processed 13 vetting requests totaling over 200 employees and completed 100 percent of vetting requests by their requested due date.

## 3. Issuances of Merit FADs

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<sup>16</sup> The Tool, developed and launched by CRCL in FY 2016, allowed CRCL’s EEO Adjudication Analysts to assess and rate the quality of ROIs reviewed when preparing Final Agency Decisions (FADs) and has been recommended as a best practice for other federal agencies by the EEOC.

Merit FADs are issued by CRCL after the following events have occurred: at the Component level, a complainant files a formal complaint alleging discrimination (after participating in EEO counseling), the Component accepts and investigates the complaint, and if a complainant does not request a hearing before an EEOC AJ, the Component sends a FAD request to CRCL. This request may be made because the complainant specifically requested a FAD, may result from the filing of a mixed case,<sup>17</sup> may be requested by the Component because of the complainant’s failure to make an election before the expiration of the post-investigation election period, or may be ordered by an EEOC AJ after dismissal of the complaint from the hearing process. EEOC regulations, at 29 C.F.R. Part 1614, require most merit FADs to be issued within 60 days of election, or other event triggering the FAD request (the exception being mixed case FADs which are required to be issued in 45 days).

CRCL experienced a decrease in the number of incoming requests for merit FADs (567) in FY 2021, compared to those received in FY 2020 (651). CRCL’s rate of timely FAD issuance increased slightly, from 17 percent (74 of 432) in FY 2020 to 19 percent (128 of 676) in FY 2021.<sup>18</sup> And, the average processing days increased by 13 days (328), when compared to the 315 average processing days in FY 2020. Figure 13 shows CRCL’s six-year trend in merit FAD issuances.

**Figure 13: Merit FADs FY 2016 – FY 2021**

	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Backlog at Year End</b>	22	149	172	311 <sup>19</sup>	407	178
<b>Total FADs Issued</b>	278	405	417	399	432	676
<b>Number Timely Issued</b>	94	105	152	83	74	128
<b>Percentage Timely</b>	34	26	37	21	17	19
<b>Average Processing Days</b>	166	207	173	238	315	328

<sup>17</sup> A mixed case is a complaint of employment discrimination that stems from an action that can be appealed to the Merit Systems Protection Board. In accordance with 29 C.F.R. § 1614.302(d)(2), the agency must issue a FAD within 45 days of completion of the investigation of a mixed case.

<sup>18</sup> In FY 2021, CRCL surpassed its goal to issue 49 percent of merit-based final actions within regulatory timeframes by issuing 50 percent (591 of 1145) timely final actions. These final actions included merit FADs and Final Orders.

<sup>19</sup> In FY 2019, CRCL changed the method by which the FAD backlog was calculated by defining the backlog as any FAD request that had been pending with CRCL for more than 60 days. In previous fiscal years, the backlog was defined as a pending FAD request that had not been assigned to an Analyst. The backlog would have been 257 if the former calculation method was used. This newer method, however, is a truer measure of the actual backlog inventory in CRCL.

In FY 2021, CRCL issued 676 merit FADs, which is an impressive 56 percent increase from the 432 FADs issued in FY 2020. This historic increase in FAD issuances in FY 2021 is also the first time since at least 2016, when the number of FAD issuances has exceeded the number of incoming FAD requests. The increase in FAD issuances helped to significantly reduce the outstanding FAD backlog, from 407 at the end of FY 2020 to 178 at the end of FY 2021.

One reason for the significant increase in merit FAD issuances was the addition of new staff to the Complaints Management and Adjudication Section (CMAS) in CRCL. Specifically, a new Analyst and Complaints CMAS Director were hired. The CMAS Director, who came on board in June 2021, had a significant effect on increasing the number of FADs issued. The new Director provided important leadership to the section, which included prioritizing FAD issuances.

Another reason for the increase in merit FAD issuances was the award and utilization of a second FAD drafting contract. CRCL also dedicated additional funding to both the original and the second FAD drafting contracts. This additional support significantly improved FAD production by addressing outstanding FADs pending from prior fiscal years. As a result, CRCL issued 309 FADs with contractor support.

#### 4. The Department's Component EEO and Civil Rights Offices

Components continued to move forward with their process efficiency initiatives during a year of many staffing and resource challenges.

##### 1. Federal Emergency Management Agency (FEMA)

###### ***Infrastructure***

FEMA's Office of Equal Rights (OER) provides EEO services to 22,615 employees. At the end of FY 2021, OER was comprised of five functional areas: (1) Business Management Unit; (2) EEO Unit; (3) External Civil Rights Division, in addition to CADRE (reservist and non-reservist employees); (4) Disability Unit; and (5) Affirmative Employment Unit.

The EEO Unit is composed of the Unit Chief, the Investigations and Compliance Program Manager, the ADR Program Manager, six EEO Specialists and one EEO Assistant. Each EEO Specialist as well as the ADR Program Manager serve as EEO Case Managers.

###### ***Complaint Processing***

In the area of pre-complaint processing, FEMA has shown a marked increase in their number of completed counselings (258 in FY 2021 from 238 in FY 2020). FEMA also showed an increase in their percentage of timely-completed counseling (76 percent in FY 2020 to 90 percent in FY

2021). Formal complaint filings also increased slightly in FY 2021 (139), as compared to FY 2020 (119).

Regarding formal complaint processing, the EEO Unit bolstered its staffing resources by utilizing two contract investigations companies and hiring an Investigations and Compliance Program Manager in FY 2021. This change allowed the EEO Unit to gain better control over the timeliness and quality of investigations. As a result, FEMA completed 150 investigations in FY 2021, 45 more than in FY 2020, and FEMA's timeliness rate for completed investigations improved from 29 percent (30 of 105) in FY 2020 to 47 percent (70 of 150) in FY 2021. Additionally, FEMA's average processing days to complete their investigations decreased from 457 days in FY 2020 to 338 days in FY 2021. This improvement is the result of processing efficiencies and Investigations and Compliance Program Manager's close monitoring of investigations contracts. The EEO Unit plans to pilot a quality review project in FY 2022 to further assess the impact of utilizing external investigators.

In FY 2021, the ADR participation rate during the pre-complaint stage showed a moderate decrease. Specifically, in FY 2021, the number of cases accepted into the ADR program was 55 out of 212 offers (26 percent), compared to 83 cases accepted of 191 offers (44 percent) in FY 2020. FEMA participated in the Department-wide Shared Neutrals Program in FY 2021, with six employees attending certification training as mediators and joining the Department-wide roster to support the program. The EEO Unit hired an ADR Program Manager in August of 2021 to establish an internal ADR Program to better assist FEMA employees in resolving conflicts they bring to OER. The program will provide marketing, education, and training of agency personnel on ADR and mediation.

### ***Services and Proactive Engagement***

During FY 2021, FEMA put significant effort into hiring senior, well-qualified staff, to meet the workload needs of the unit. New staff was brought on to strengthen the EEO Unit's capabilities. FEMA expects full staffing of the EEO program in FY 2022.

## 2. The Federal Law Enforcement Training Centers (FLETC)

### ***Infrastructure***

The FLETC EEO Office provides services to 1,298 FLETC employees. The Office is comprised of the EEO Officer, Complaints Manager, five EEO Specialists, and one Staff Assistant. One EEO Specialist serves as the Disability Program Manager. Each EEO Specialist manages at least one special emphasis program, presents EEO information for New Employee Orientation, counsels informal EEO complaints, processes requests for reasonable accommodation due to disabilities and religion, and processes provisional arrangements for pregnancy related issues. The Complaints Manager and Disability Program Manager develop and present management training on EEO topics, including ADR, Harassment Prevention, and Reasonable Accommodation.

### ***Complaint Processing***

FLETC timely completed 100 percent of its pre-complaint counselings (12) during FY 2021. FLETC continues to support the DHS Shared Neutrals Program through the Complaint Manager's role in co-leading the DHS Basic Mediation Training sessions.

In the area of formal complaint processing, there were eight formal EEO filings in FY 2021 as compared to 14 in FY 2020. This represents a 43 percent decrease. In addition, FLETC completed 100 percent (five) of its formal EEO complaint investigations within the regulatory timeframe of 180 days, or 270 days with an approved extension. The FLETC EEO Office also timely processed nine conflict of interest cases for other DHS Components within the regulatory timeframe of 180 days, or 360 days with an amendment. The FLETC EEO Office remains committed to completing all EEO investigations in a timely manner. To fulfill this goal, the FLETC EEO Office continues to work closely with EEO contract investigators, responding management officials, the Human Capital Office, and the Office of Chief of Counsel.

### ***Services and Proactive Engagement***

FLETC requires all employees to complete No FEAR Act training on a biennial basis and requires that all new employees complete the No FEAR Act training within 30 calendar days of entering service. The No Fear Act Training is provided on-line through the FLETC virtual learning platform.

FLETC's Reasonable Accommodation and Personal Assistance Program procedures were completed and issued during FY 2021.

All FLETC FY 2021 reasonable accommodation cases were entered into the Accessibility Compliance Management System (ACMS). This system is a DHS-wide single point of entry and reporting system to track all related activities under Sections 501, 503, 504, and 508 of the Rehabilitation Act of 1973, as amended, to support DHS employees and members of the public with disabilities. ACMS allows all DHS components to document and report compliance and accessibility activities and to consistently track status and progress towards meeting the Section 508 compliance requirements and EEO program requirements.

During FY 2021, 18 new supervisors and managers participated in FLETC's New Supervisor Training Program, which is a week-long program that is mandatory for all new supervisors within their first year of supervision. Training modules on both the EEO process and reasonable accommodation procedures are included in this program.

### 3. DHS Headquarters EEO Office (HQ EEO)

#### ***Infrastructure***

HQ EEO provides EEO services to over 8,000 DHS Headquarters employees, including Cybersecurity and Infrastructure Security Agency (CISA) employees, by enforcing compliance with EEO laws, regulations, and mandates; providing guidance to Headquarters and CISA management officials and employees on EEO and diversity; preventing and addressing unlawful employment discrimination; and ensuring that all Headquarters and CISA employees have a working environment that is free from unlawful discrimination, harassment, or reprisal and that will support them in the fulfillment of their mission to protect the homeland.

In FY 2021, HQ EEO experienced significant staffing challenges. During the fiscal year, staff departures included the loss of the Complaint Program Team Lead (GS-14) and two EEO

Specialists (GS-13s) in the Complaint Program. These three individuals' responsibilities included the intake, counseling, evaluation of acceptance and dismissal, investigation oversight of EEO complaints, as well as the coordination with the Office of the General Counsel and the EEOC on matters at hearing or on appeal. These staff departures came at a time when the HQ EEO program was already experiencing the vacancy of an EEO Specialist Investigator (GS-14) who conducted investigations for complex or novel HQ EEO or CISA complaints, as well as conflict cases filed at other DHS Components or in other federal agencies with whom HQ EEO has interagency agreements. Moreover, another EEO Specialist (GS-13) for the Affirmative Employment Program, who was hired to work on annual reports (including the MD-715 report), advance the affirmative employment program at Headquarters, advance Special Emphasis programs, and lead diversity and inclusion initiatives also departed DHS. Lastly, HQ EEO also experienced limitations in the availability of contractor support for investigations, and before the end of the fiscal year, lost the services of a contractor Administrative Assistant.

To mitigate these staffing shortages, HQ EEO acquired the support of several individuals who served on short term detail assignments. In addition, near the end of FY 2021, HQ EEO was able to backfill the EEO Specialist Investigator and complete hiring efforts for one EEO Specialist position, who onboarded at the start of FY 2022. Also, HQ EEO finalized its hiring selections for the Team Lead and second EEO Specialist position for the Complaints Program.

### ***Complaint Processing***

In FY 2021, HQ EEO completed a total of 116 pre-complaint counselings. HQ EEO timely completed 99 percent (115 out of 116) of the pre-complaint counselings. HQ EEO also completed a total of 72 EEO investigations—a record level high of completed investigations when compared to the prior fiscal years. However, the significant reductions in staffing impacted HQ EEO's ability to timely process formal complaints during FY 2021. Notably, the timely completed investigation rate decreased in FY 2021 to 63 percent (45 out of 72), compared to 96 percent in FY 2020.

### ***Services and Proactive Engagement***

In FY 2021, HQ EEO kept employees engaged and informed about EEO and diversity issues by maintaining a regular training cadence. HQ EEO provided EEO briefings at New Employee Orientations for all incoming Headquarters and CISA employees, including new incoming Headquarters and CISA senior executives. HQ EEO staff also provided EEO and reasonable accommodation trainings during the quarterly Human Resources Essentials training courses aimed at developing new HQ and CISA supervisors. The staff also provided the Office of Intelligence and Analysis with a separate EEO and HR training. Additionally, HQ EEO provided as-requested trainings and presentations at Headquarters program Town Halls, all-staff meetings, and supervisor and manager meetings including EEO updates, complaints processing refreshers, and diversity and inclusions concepts such as dignity and respect. HQ EEO also provided executive level briefings on program wide EEO activities. Due to the ongoing pandemic, all trainings were conducted virtually, yet attendance and engagement remained high.

HQ EEO also continued to make strides in FY 2021 by growing its Reasonable Accommodation program. In addition to handling daily contacts from employees and managers seeking advice and guidance on the reasonable accommodation process and disability rights and responsibilities,

HQ EEO processed reasonable accommodation requests made by 76 employees, applicants for employment, and contractors at Headquarters and CISA. The Reasonable Accommodation Program also engaged in an active training schedule, including providing: Disability Etiquette and Awareness Training to HQ and CISA employees; Reasonable Accommodation Trainings for supervisors and managers, as well as for employees at several Headquarters Programs; and trainings on the application of the Rehabilitation Act to COVID-19 scenarios. Moreover, the Reasonable Accommodation program assisted in various programs that advance the disability programs at the Departmental level, including participation in the Department's Individuals with Disabilities/Individuals with Targeted Disabilities Barrier Analysis team meetings and contributing to the drafting, editing, and data analysis of reports.

#### 4. Transportation Security Administration (TSA)

##### ***Infrastructure***

TSA's Civil Rights Diversity & Inclusion (CRDI) division provides EEO services to a workforce of more than 61,000 employees. CRDI is organized into three main branches: the EEO Management Branch, the Affirmative Employment Branch, and the Diversity and Inclusion Branch. At the end of FY 2021, the staffing level of CRDI consisted of 35 full-time federal employees. In FY 2021, in addition to its federal employees, CRDI also was supported by two contract investigative firms and one contract mediation firm.

##### ***Complaint Processing***

In FY 2021, TSA maintained its timely pre-complaint processing timeframe of 90 percent or above from the last five fiscal years. In FY 2021, TSA completed a total of 464 pre-complaint counselings. Of the 464 pre-complaints, 98 percent (456 of 464) were processed within the required regulatory timeframes, which was the same rate of 98 percent in FY 2020.

TSA offered ADR in 390 pre-complaints; of those 390 pre-complaints, 198 (51 percent) were accepted into the ADR program. This was a 17 percent decrease in cases accepted into the ADR program compared to FY 2020 when ADR was offered in 409 pre-complaints, with 239 cases (58 percent) being accepted into the program.

In the area of formal complaints, TSA had an 11 percent decrease in the number of formal complaint filings in FY 2021 (250) from FY 2020 (281). TSA's timely percentage rate for timely completed investigations has remained steady over the past two fiscal years. In FY 2021, TSA completed 93 percent (177 of 191) of its investigations as compared to 92 percent (358 of 390) in FY 2020.

##### ***Services and Proactive Engagement***

In FY 2021, CRDI staff provided Civil Rights/EEO training to approximately 3,527 TSA employees. The training was provided at Federal Air Marshal Service (FAMS) field offices, airports nationwide, and TSA HQ. CRDI's training, which was primarily virtual this fiscal year due to the pandemic, was supplemented by TSA's Online Learning Center's No FEAR Act training, which all employees are required to complete every other year. TSA also requires all

new employees to complete No FEAR Act training within the first 90 calendar days of entering service.

CRDI's training courses covered a broad range of model workplace topics. CRDI staff conducted 48 sessions including "EEO/Civil Rights for Management Overview," "Elimination and Prevention of Harassment for Management," "Civil Rights for Management Overview - Reasonable Accommodation," "Micro-Inequities and Micro Affirmation Training," "Racism, Micro-Inequities, and Micro-Affirmations Training," and "EEO for New Employees." In addition, CRDI staff conducted 12 sessions of "Inclusive Diversity Training for Leadership" at the J/K/L pay bands attended by approximately 1,200 TSA supervisors. This course provided to senior leadership included: strategies for how to set the tone at the top for being inclusive; the definition of Diversity & Inclusion; review of TSA's business case for Inclusive Diversity; Learn TSA's risk factors against Inclusive Diversity; Learn how Unconscious Bias is a barrier to Inclusive Diversity; Learn how to use the Five Inclusive habits; and The Fix: how to measure success and a resource network.

TSA's Civil Rights Diversity & Inclusion ADR Program (CRDI-ADR) provided services including pre-mediation coaching, settlement conferences, and post impasse shuttle diplomacy. CRDI-ADR leveraged video conferencing, cloud-based scheduling, and electronic document/signature technology to facilitate virtual and in-person mediation. To increase employee awareness of the availability and benefits of EEO ADR, CRDI-ADR created and disseminated a sample ADR marketing video, a mock ADR session, and initiated the agency-wide recognition of National Conflict Resolution Day. In FY 2021, CRDI-ADR conducted 145 pre-complaint ADR sessions, to include 129 mediations and 16 facilitations resulting in 16 complaint withdrawals, 30 settlements, and 25 memoranda of understanding. In addition, CRDI-ADR conducted 14 ADR sessions during the formal complaint stage, resulting in five settlements.

## 5. U.S. Citizenship and Immigration Services (USCIS)

### ***Infrastructure***

The mission of the USCIS Office of Equal Opportunity and Inclusion (OEOI) is to guide agency efforts to leverage diversity and inclusion in the workplace, and to provide a work environment free of discrimination where all employees feel valued, respected, and empowered. OEOI services a USCIS federal workforce of 18,933 employees. The Chief of OEOI reports directly to the USCIS Office of the Director, underscoring the agency's commitment to the importance of EEO as an integral part of the USCIS mission to ensure a workplace free of discrimination. In FY 2021, OEOI was organized into three divisions: the Complaint Resolution Division (CRD); the Diversity Management Operations Division; and the Policy, Planning and Resources Division. In addition, OEOI administers the agency's Anti-Harassment Program (AHP) and advises USCIS on certain external civil rights matters. OEOI currently is staffed by full-time employees and utilizes several detailed employees to supplement its program resources. Additionally, USCIS employs the assistance of collateral-duty Special Emphasis Program Managers (SEPMs) and reasonable accommodation coordinators at various offices nation-wide to assist in achieving its EEO, outreach, and education objectives.



### ***Complaint Processing***

In the area of pre-complaint processing, the number of informal EEO cases decreased by 19 percent in FY 2021 (161) as compared to FY 2020 (198). There was also a 28 percent decrease in the number of completed counselings in FY 2021 (160) compared to FY 2020 (222). Factors likely contributing to a decrease in complaint activity include an agency-wide hiring freeze and a significant percent of the workforce teleworking under COVID-19 pandemic flexibilities. CRD processed 99 percent (158 of 160) of EEO counselings within EEOC's regulatory timeframes.

Formal complaint filings similarly decreased in FY 2021, by 37 percent (88) as compared to FY 2020 (139). CRD processed 100 percent (102) of its investigations within the EEOC's regulatory timeframes. CRD continued implementing efficiencies in its EEO case processing procedures and utilized contract EEO investigators to supplement internal resources. In addition, CRD substantially lowered the average processing days at the acceptance or dismissal stage<sup>20</sup> from 59 days in FY 2020 to 39 days in FY 2021. In FY 2021, OEOI conducted a trend analysis of EEO complaint data, including a review of recent increases in complaint filings based on disability. According to the analysis, USCIS's higher population of individuals with disabilities, which is 20 percent of the workforce as compared to 9 percent government-wide, may be a contributing factor to the higher rate of complaint activity as compared to government-wide averages.

CRD also led efforts to implement the FEAA by educating stakeholders on new legal reporting requirements and establishing a public facing webpage for posting complaint activity and information on findings of discrimination. CRD staff participated in two DHS CRCL working groups and contributed to redrafting the DHS Complaint Processing Procedures and provided recommendations for the proposal to create a Departmental Conflict Case Unit.

Efficiency of the overall EEO complaint process was enhanced by CRD's robust ADR program. The ADR program continued to hold all mediations virtually using a video conferencing platform. The ADR participation rate was 69 percent, which was higher than the 66 percent participation rate in FY 2020. In FY 2021, the informal ADR resolution rate was 55 percent and the informal settlement rate for ADR cases<sup>21</sup> was 16 percent, both of which were slightly higher than in FY 2020. The increased resolution rate in FY 2021 was bolstered by the creation of a designated management official cadre, which allowed for continuity and an increased knowledge base among its members. In addition, the ADR program increased communication with aggrieved persons entering the ADR process to set expectations, answer questions, and establish best practices for participation in mediation. The USCIS ADR program utilized two sources of neutrals: Federal Mediation and Conciliation Services (FMCS), through use of an interagency agreement, and the DHS Shared Neutrals program. In FY 2021, USCIS used the DHS shared neutrals cadre for 46 mediations, which resulted in a savings of \$20,815, as compared to 57

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<sup>20</sup> According to DHS EEO Complaint Procedures, the accept or dismiss stage should be completed within 30 days, or 60 days, where clarification is requested.

<sup>21</sup> The informal ADR resolution rate includes all ADR closed cases that did not move on to the formal complaint stage, including cases closed with a settlement agreement, withdrawn from the EEO process, and those cases where a formal complaint was not filed after participating in ADR. The informal settlement rate for ADR cases includes only those closed ADR cases that resulted in a settlement after engaging in informal ADR.

mediations conducted by FMCS, which cost approximately \$27,600. In addition, USCIS contributed ten new certified mediators to the DHS Shared Neutral cadre and developed a conflict management article series included in the DHS Shared Neutrals Quarterly Newsletter.

### ***Services and Proactive Engagement***

The AHP processed 17 percent more cases in FY 2021 (210) as compared to FY 2020 (180). In FY 2021, the AHP ensured 100 percent of Management Inquiry Officers and Office of Investigations staff completed mandatory anti-harassment fact-finder training, which is a DHS CRCL requirement. Additionally, the AHP launched supplemental anti-harassment training for all supervisors and managers and is on track for full compliance in FY 2022, with more than a one-third completion rate by the end of FY 2021. In FY 2021, the AHP also coordinated with CRD to ensure USCIS employees were offered biennial No Fear Act/Anti-harassment training, with a 98 percent completion rate.

With respect to the agency's reasonable accommodation efforts, OEOI's Disability Accommodation Program received 550 requests seeking a total of 785 accommodations, during FY 2021. This included, but was not limited to, electronic equipment, ergonomic chairs, telework, alternative work schedules, software, and sign language interpreters. USCIS continued the best practice of a centralized accommodation fund, which was allocated \$3,420,537 for FY 2021, and 93 percent of the allocated amount was used. USCIS also conducted eight training sessions on reasonable accommodation for both supervisors and employees during FY 2021. Additionally, USCIS worked on process improvements through the modification of management directives, updates to forms used in the reasonable accommodations process, and proposed enhancements to the ACMS tracking system utilized by USCIS.

During FY 2021, OEOI staff provided training on various EEO topics to over 3,900 employees and managers. OEOI developed two new training modules on EEO-related topics and adapted to the virtual environment by recording five training modules, available on demand, for professional development through the agency's learning management system. In FY 2021, nearly 500 employees completed the recorded trainings. OEOI also launched listening sessions for different demographic groups in FY 2021 to provide a safe space for individuals to engage in meaningful discussions around social issues affecting the country as well as their individual experiences at USCIS. These listening sessions coincided with national observances for four programs. For example, one listening session was titled "Challenges Facing the African American and Black Community," which was attended by the USCIS Director.

In FY 2021, OEOI also administered the biennial EEO and Diversity Climate Survey to identify possible barriers that may impede certain groups of employees from accessing and enjoying equal employment opportunity. In addition, USCIS continued the annual recognition of superior commitment to promoting a diverse workforce and a workplace culture of inclusion through the Director's Award for Equal Employment Opportunity and Diversity Excellence. OEOI launched an external newsletter for the USCIS workforce in FY 2021: "Equal Opportunity & Inclusion News." This quarterly newsletter was established to communicate information about OEOI and provide updates related to EEO, diversity and inclusion to the USCIS workforce. The newsletter also aligns with the OEOI strategic theme and strategic objective to be recognized as a resource by increasing the visibility of the services OEOI provides to its USCIS customers.

## 6. U.S. Coast Guard (USCG)

### ***Infrastructure***

The USCG Civil Rights Directorate (CRD) provides services to about 9,450 Civilian Employees and over 46,684 Service members. The Civil Rights Director reports to the Commandant of the USCG. The EEO complaint processing program is comprised of Headquarters staff who have four geographical regions of responsibility. Each region is divided into 14 geographical zones. The informal complaint processing is conducted by full-time EEO Counselors across the regions. An EEO Manager leads the complaints processing unit, i.e., the Solutions and Complaints Division (SCD). The Division consist of ADR Specialists, Complaints Managers, Attorney Advisors, an Information Technology Specialist, and an EEO assistant. In addition, CRD uses a contract firm to conduct EEO investigations.

### ***Complaint Processing***

During FY 2021, the USCG continued to maintain an effective, efficient complaint processing unit.

Pre-complaints: USCG timely completed 100 percent of its 68 counselings in FY 2021. The 68 completed counselings in FY 2021 represent a 12 percent decrease when compared to the 77 completed counselings in FY 2020.

Formal Complaints: There were 29 formal complaints filed in FY 2021, a 29 percent decrease from the 41 complaints filed in FY 2020. The number of investigations completed also decreased by 29 percent in FY 2021, with 30 investigations completed, compared with 42 investigations completed in FY 2020. The SCD continued using an electronic file transfer system, Secure Access File Exchange (SAFE), to provide EEO documents to complainants, their representatives, and investigators. This expedited method of delivery resulted in 100 percent of USCG's investigations being completed within the regulatory timeframe in FY 2021. This exceeded the government-wide average of 83 percent.<sup>22</sup> In FY 2021, investigations averaged 114 average processing days, which is a 12 percent decrease compared with 129 average processing days in FY 2020. Since the implementation of the electronic file transfer system in FY 2018, the USCG has achieved a 43 percent decrease, or 86 days, in the average investigation processing time.

ADR: In an effort to resolve issues at the earliest opportunity, USCG offered ADR to 100 percent of individuals initiating pre-complaints in FY 2021. The participation rate during the pre-complaint process for FY 2021 was 39 percent, which is below the FY 2020 participation rate of 51 percent. Of the 26 cases in which ADR was conducted during the pre-complaint process, settlement was achieved in 38 percent (10) of the cases. In FY 2021, USCG also offered ADR to 100 percent of individuals who filed formal complaints. This resulted in a 51

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<sup>22</sup> <https://www.eeoc.gov/sites/default/files/2021-07/2019%20Annual%20Report%20Complaints%20Tables.zip>.

percent participation rate, significantly higher than the government-wide average participate rate of 37 percent.<sup>23</sup> Formal complaints settled during ADR at a rate of 28 percent.

### ***Services and Proactive Engagement***

USCG performed annual EEO climate assessments of its units to determine whether any perceptions of bias or triggers exist that may affect the work environment. For FY 2021, the USCG conducted 21 on-site climate assessment reviews. In addition to participating in the Federal Employee Viewpoint Survey (FEVS), USCG unit Commanding Officers and supervisors offered their employees an opportunity to participate in an annual climate assessment survey, which is separate from the on-site assessment. USCG collaborates with the Department of Defense's Office of People Analytics to utilize its survey and reporting services. The Defense Organizational Climate Survey assesses workforce perceptions of discrimination, harassment, equal opportunity, and other organizational effectiveness measures. Each completed survey report provides unit leadership with the ability to better analyze the work climate. Leaders must create an action plan to foster positive behaviors and correct any concerns. The Defense Equal Opportunity Management Institute provides comprehensive tools to create effective action plans through their "Assessments to Solutions" website.

USCG continued its requirement for triennial EEO awareness training for all military and civilian members of the workforce. The triennial training modules include information on the EEO complaint process, ADR, reasonable accommodations, personal assistance services, anti-harassment and hate incident procedures, along with special emphasis programs, climate surveys, and social climate incident reporting. During FY 2021, Civil Rights Service Providers (CRSPs) presented and facilitated discussions during in-person training sessions for 21,514 individuals (including 1,593 supervisors), a nearly 10 percent increase when compared with FY 2020 (19,642).

**Anti-Harassment and Hate Incidents:** Through USCG's procedure for handling reports of harassment, USCG's leadership swiftly investigated 65 allegations by civilian employees in FY 2021. Claims of harassment overall were slightly higher than in FY 2020, when there were 63 claims investigated. USCG substantiated harassment and took corrective actions in nine cases in FY 2021, a decrease of 40 percent, when compared with the 15 substantiated claims in FY 2020.

**Reasonable Accommodations and Personal Assistance Services:** In FY 2021, USCG granted over 80 percent of requests for reasonable accommodation. The granted accommodations included, but were not limited to, electronic equipment, ergonomic chairs, telework, alternative work schedules, motorized scooters, wheelchairs, and sign language interpreters. USCG continued its relationship with the Department of Transportation Disability Resource Center (DRC). DRC provides the USCG with a centrally funded resource to provide reasonable accommodation services, personal assistance services, technical assistance, training, and outreach to all managers, supervisors, employees and job applicants. USCG did not receive any requests for personal assistance services in FY 2021.

The USCG Headquarters Mobility Program provided mobility devices such as motorized scooters and wheelchairs, to USCG employees, applicants, and visitors for on-site use. In FY

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<sup>23</sup> <https://www.eeoc.gov/sites/default/files/2021-07/2019%20Annual%20Report%20Complaints%20Tables.zip>.

2021, the program received 16 requests and provided these temporary, on-site accommodations for individuals with mobility needs.

CRD continued to publish a monthly newsletter, “Civil Rights On Deck,” which is targeted to both internal and external readers. The newsletter provides an important avenue through which the agency educates the workforce and key stakeholders on EEO cases, general EEO complaint process information, best practices, EEO awards, and special observances.

Finally, USCG biennially recognizes a military or civilian CRSPs through its CRSP Superior Service Award program. CRSPs are a vital link between civilian employees, military members, and management as they actively support equal opportunity and the implementation of civil rights programs.

## 7. U.S. Customs and Border Protection (CBP)

### ***Infrastructure***

CBP’s Diversity and EEO Division provides services to over 64,000 CBP employees while ensuring compliance with Federal civil rights laws, regulations, and Executive Orders by providing a policy framework for diversity, inclusion, and employee engagement initiatives, and complaints management. The Diversity and EEO Division’s leadership team consists of one Director, two Deputy Directors, and several Assistant Directors.

### ***Complaint Processing***

During FY 2021, 678 new informal complaints were initiated, compared to 706 in FY 2020, representing a four percent decrease in informal complaint activity. CBP counseled and closed 661 informal complaints (which included several informal complaints that carried over from the previous fiscal year), which is a five percent decrease from FY 2020, when 699 complaints were counseled and closed. Of the 661 cases counseled in FY 2021, all were counseled timely, with 463 cases closed through the issuance of a Notice of Right to File, 185 cases withdrawn, and 13 cases settled.

In FY 2021, 364 formal complaints were filed, representing a two percent decrease from FY 2020, when 371 complaints were filed. While fewer formal complaints were filed in FY 2021, the number of formal complaints filed reflects an overall increase in the number of formal complaints filed since FY 2017 (266). In FY 2018, 419 complaints were filed (a 58 percent increase from FY 2017); in FY 2019, 356 complaints were filed (a 34 percent increase from FY 2017); and in FY 2020, 371 complaints were filed (a 39 percent increase from FY 2017). CBP attributes the increase in formal filings to an increase in the CBP workforce from 59,178 employees in FY 2017 to 64,246 employees in FY 2021.

CBP experienced staff attrition in FY 2020, which continued in FY 2021. These staffing shortages affected CBP’s efficiency about formal complaint processing. CBP completed 149 investigations in FY 2021, which is a 49 percent decrease from the 290 investigations completed in FY 2020. Of the 149 completed investigations, the overall average processing time increased from 240 days in FY 2020 to 390 days in FY 2021. The number of investigations completed within regulatory timeframes decreased significantly from 91 percent in FY 2020, to 37 percent

in FY 2021. As a result of the staffing shortages, CBP maintained a contract, in the amount of \$300,000, for supplemental investigative services during FY 2021, and another contract for supplemental investigative services in the amount of \$1,000,000 is expected to be awarded in FY 2022.

ADR: In FY 2021, CBP continued to promote ADR as a preferred method for resolving EEO complaints at the lowest possible level. CBP utilized an internal cadre of collateral duty mediators and also continued to participate in the Department-wide Shared Neutrals Program. The ADR Program Coordinator served on the DHS ADR Advisory Council, providing guidance and input, and assisting in component-wide training. This continued coordination provided the opportunity for CBP to be more closely aligned with the Department's management of the ADR program.

Of the 661 informal complaints counseled during FY 2021, 570 were offered mediation (an 86 percent offer rate). Of those offered mediation, 408 complainants accepted mediation, resulting in a 72 percent acceptance rate. These mediations resulted in 13 settlements (5 percent of the 248 mediations conducted) and 27 withdrawals (12 percent of the 248 mediations conducted).

EEO Staff Training: In March 2021 and April 2021, all Diversity and EEO Division staff participated in Unconscious Bias training by CBP's Leadership Development Center. During the training, staff were educated on the concept of unconscious bias and on understanding and recognizing their own unconscious biases toward other individuals. Staff also learned positive steps that can be taken to help employees, at every level, recognize, understand, and manage hidden biases that can lead to poor decision making and undermine diversity, equity, and inclusion initiatives.

In April 2021 and June 2021, eight EEO Officers participated in the DHS Inclusive Diversity Dialogues Program (IDDP) to become certified as part of the cadre of facilitators for the DHS IDDP. Participants of the IDDP facilitator training learned how to conduct and facilitate a cohort based IDDP, in which small groups of employees come together in an open, comfortable, and safe environment to discuss similarities and differences based on the many dimensions of diversity that are represented in the DHS workforce. The facilitation training allows CBP to offer a resource to its offices as a conflict resolution method and to promote safe work environments, where employees feel like they have been heard and potentially eliminating the need for some employees to resort to filing EEO complaints. This will further enhance employee engagement across CBP.

On September 23, 2021, the Diversity and EEO Division staff attended Privacy Act training where topics discussed included: privacy fundamentals, privacy compliance, information sharing, protecting personally identifiable information, and penalties for privacy act violations. The training provided CBP's Diversity and EEO Division staff with guidance and skillsets to use, delivered problem solving skills for privacy issues that may arise in the duties performed on any given day, and created a forum for discussion on best practices and techniques for learning how to navigate difficult conversations.

Efficiencies: An increased volume in complaint activity over the years and staffing challenges have resulted in a significant backlog of cases pending investigation. In response, the Diversity and EEO Division management team created two new letter templates, (i.e., the Acknowledgement Delay Letter and the Notification of Investigation Delay Letter). These template letters promote efficiency by proactively requesting an extension on the regulatory timeframe and by offering complainants the ability to participate in formal mediation, in the interim, while their case is pending investigation. Providing these letters informs complainants about the delays in complaint processing and provides written information for their reference, which assists CBP's EEO Investigators in managing complainants' expectations. To further monitor and track the backlog, the Diversity and EEO Division management team implemented measures to ensure the 180-day notification letter is issued in a timely manner, in accordance with EEOC MD-110 requirements. To do so, the Formal Complaint Team Managers are responsible for tracking all cases in a weekly report, including whether the 180-day letter has been issued. Since implementing this step in October 2020, all cases are receiving the 180-day letter in a timely manner.

To expedite the formal complaint processing, the Diversity and EEO Division leadership team updated existing "How to Guides" throughout FY 2021 to streamline and eliminate unnecessary steps. These updated guides pertain to entering data about contractor's ROIs in the enterprise database system and on how to process hearing requests. The guide on hearing requests provided written guidance on how to properly process a hearing request, including the steps for uploading the ROI to EEOC's online portal, FedSEP. The team also created a new guide for reviewing investigative files completed by a contractor. The guide is designed to teach new EEO Specialists how to efficiently review a contractor's draft ROI, index, and summary to ensure legal sufficiency and accuracy, by providing written guidance and highlighting specific areas to focus on, such as:

- Formatting specifics in the ROI, index, and summary (e.g., correct grammar, spelling, and formatting; consistency with pronouns; correct use of acronyms; etc.).
- Ensuring all identified and relevant affiants have been interviewed.
- Ensuring any follow-up allegations made by Complainant have been addressed.
- Ensuring all documentary evidence and comparative data in the ROI is noted.

### ***Services and Proactive Engagement***

CBP continuously strives to incorporate EEO into everyday practice and make diversity and inclusion principles fundamental parts of CBP's organizational culture. During FY 2021, CBP began work on an updated Diversity, Equity, Inclusion, and Accessibility Strategic Plan. In support of this update and to ensure the new Plan is comprehensive and data driven, CBP engaged the services of a contract firm.

During FY 2021, CBP concentrated its efforts on training employees and promoting cultural awareness as two methods to reduce discrimination in the workplace. Approximately 80 percent of the CBP workforce is assigned to the following major operating offices: Office of Field Operations; U.S. Border Patrol; and Air and Marine Operations.

1. Training – CBP engaged in multiple training activities across various platforms (onsite, webinar, and computer based) to further strengthen its EEO program. Training included:
  - Supervisory Leadership Training: All new supervisors must complete this three-week-long training program within their first year of promotion into a supervisory position. During FY 2021, 497 supervisors completed Supervisory Leadership Training.
  - EEO Awareness, Harassment, and Reasonable Accommodation Training: During FY 2021, CBP conducted 27 sessions of EEO Awareness Training, which trained 277 supervisors and 190 non-supervisors and 74 sessions of Harassment Awareness Training, which trained 1,079 supervisors and 97 non-supervisors. These training sessions covered an overview of CBP’s anti-discrimination policy and commitment to diversity, a review of EEO laws and Executive Orders, and discussions of what constitutes discriminatory behavior and harassment. CBP also conducted 28 sessions of Reasonable Accommodation Training, which trained 602 non-supervisors and 780 supervisors on CBP’s reasonable accommodation process, confidentiality of medical information, and EEO law concerning accommodations.
  - DHS Preventing and Addressing Workplace Harassment Training Module: This course provided examples of harassing behavior, informed participants how allegations can be reported, and demonstrated how to use this knowledge to identify and assess behaviors in practical scenarios. During FY 2021, 64,001 employees (99 percent of the workforce) completed the course.
  - Personal Use of Social Media Training Module: The course covered acceptable and unacceptable behavior – including harassment – on social media, and the potential consequences for violating rules regarding the use of social media. During FY 2021, 64,171 employees (99 percent of the workforce) completed the course.
2. Anti-Harassment Program – CBP continued to review its anti-harassment program, identify trends, and review existing policies and practices.
  - Anti-Discrimination and Anti-Harassment Policy Statement: CBP’s Anti-Discrimination and Anti-Harassment Policy Statement specifically states that CBP will not tolerate harassment or bullying in the workplace, whether it occurs on duty, off duty, face-to-face, or remotely through electronic means (i.e., e-mail, social media, or telephone).
  - Harassment Complaints: During FY 2021, CBP’s Office of Professional Responsibility received a total of 927 harassment complaints from employees. CBP has completed inquiries into 340 of the total complaints and has issued four memoranda of instruction, 14 verbal counselings, eight written counselings, five written reprimands, one suspension, one retirement, one



resignation, one reassignment, and one termination. The remaining complaints are pending review, investigation, adjudication, or closure.

## 8. U.S. Immigration and Customs Enforcement (ICE)

### ***Infrastructure***

ICE's Office of Diversity and Civil Rights (ODCR) provides EEO counseling, investigation, and ADR services to 20,899 ICE employees through its Complaints and Resolution Division (CRD). The CRD is led by a Division Chief and Deputy Division Chief. The Division experienced staffing fluctuations throughout the year. At the beginning of FY 2021, CRD had a Division Chief and Deputy Division Chief, one Senior EEO specialist, an ADR Program Manager, and three junior EEO Specialists.

Due to the Division Chief's detail and extended leave from November 2020 to August 2021, the Deputy Division Chief served as the Acting Chief. In the 2<sup>nd</sup> quarter of FY 2021, CRD onboarded two EEO Specialists, while another EEO Specialist left the Agency in April 2021. In the 2<sup>nd</sup> quarter of FY 2021, CRD also brought on a detailee to manage the Internal Investigations Program Unit.

In the 4<sup>th</sup> quarter of FY21, CRD rehired an annuitant as a Mission Support Specialist to focus on compliance with settlement agreements and orders in FADs. By the end of the 4<sup>th</sup> quarter of FY 2021, CRD had two EEO Specialist positions and the Division Chief position vacant. CRD is working with the ICE's Office of Human Capital to backfill these positions.

### ***Complaint Processing***

ICE experienced decreases in both pre-complaint and formal complaint activity in FY 2021, in comparison to its pre-complaint and formal complaint activity in FY 2020. Consequently, ICE completed 228 counselings in FY 2021, a 19 percent decrease from the 282 counselings completed in FY 2020. With regard to formal complaint filings, 136 complaints were filed in FY 2021, a 26 percent decrease from the 184 formal complaints filed in FY 2020.

Despite the staff fluctuations throughout FY 2021, CRD continued to demonstrate significant improvements in timeliness in pre-complaint and formal complaint processing. ICE timely completed 98 percent (224 of 228) of counselings in FY 2021, compared to the 85 percent (240 of 282) counselings timely completed in FY 2020. With regard to investigations, ICE timely completed 55 percent (67 of 122) of its investigations in FY 2021, which is significant increase from the 34 percent (52 of 154) of investigations timely completed in FY 2020. This increase contributed to the decrease in average processing days for investigations, which dropped from 344 processing days in FY 2020 to 276 processing days in FY 2021. ICE also showed improvements in the processing of procedural dismissals by decreasing the average number of processing days by 68 percent: from 383 days in FY 2020 to 124 days in FY 2021.

ICE continued to have a robust ADR program. During the pre-complaint stage, ICE offered ADR in 215 cases during FY 2021. Of the 215 cases, 144 were accepted into the ADR program, which represents a 68 percent acceptance rate. This resulted in 29 settlements in FY 2021.

Regarding the formal complaint process, ADR was offered in 25 complaints in FY 2021, which is comparable to the 26 complaints in FY 2020. A total of 19 complaints were accepted into ADR in FY 2021, while 25 were accepted in FY 2020. This resulted in 4 settlements.

### ***Services and Proactive Engagement***

During FY 2021, ODCR continued its practice of providing training at New Employee Orientation sessions for new National Capital Region (NCR) employees. These sessions include information on the EEO complaints process, contact information, and timeframes. Outside of the NCR, this information is provided in orientation materials. ODCR also continued to provide training about the EEO complaint process and management responsibilities during ICE's Supervisory Leadership Training.

Based on data, anecdotal information, and feedback from managers and supervisors, ODCR identified a need to revise the annual, mandatory EEO sessions for ICE managers and supervisors. Rather than addressing violations once they occurred, the refreshed training emphasized how appropriate behaviors from leadership can minimize risk to the agency. As a result, ODCR's Anti-Harassment training included an EEO section designed to provide tools for management to identify and address behaviors such as retaliation, harassment, and discrimination, which may lead to reduced complaint caseloads. The training was offered virtually, in-person, and through mandatory eLearning training, and was offered to both supervisory and non-supervisory personnel. In-person training decreased due to the pandemic, but in-person training was conducted at the Los Angeles office, and virtual courses were conducted for the New York, Florida, Ohio, California, Utah, and Texas offices.

Despite challenges posed by the pandemic, ODCR leadership conducted virtual site visits and provided virtual briefings to field leadership via Microsoft Teams. During these virtual site visits, field executives, managers, and supervisors were provided with overviews of their office's EEO complaint activity, workforce diversity data, and the status of the reasonable accommodation requests in their offices. The briefings included discussion of the language access services used to provide interpretation and translation services to ICE's external stakeholders as part of ICE's Language Access Plan.

Additionally, ODCR hosted training for supervisors and managers on Unconscious Bias and Cultural Sensitivity, as well as Senior Executive Service (SES) level training on "Blindspot: Implicit Bias" to assist in proactively ensuring leaders know what behaviors, thought processes, and actions lead to complaints by employees. These interactive courses were well received, and 86 percent of supervisors and managers were trained, while 35 percent of SES leaders were trained in FY 2021. These training vehicles will continue in FY 2022.

## 9. U.S. Secret Service (USSS)

### ***Infrastructure***

The USSS's Equity, Diversity, and Inclusion (EDI) Program, located in the Office of Equity and Employee Support Services, works to proactively address discrimination, conflict resolution, and

the processing of complaints of discrimination for employees and contract employees. EDI provides services to more than 7,000 employees and is staffed by the EEO Director, Deputy EEO Director, Formal Complaints Manager, Pre-Complaints Manager, Disability Program Manager, Affirmative Employment Program Manager, an Administrative Officer, EEO Specialists (Generalist), and Program Analysts. The program also includes collateral duty EEO Counselors, as well as collateral duty SEPMs.

### ***Complaint Processing***

During FY 2021, EDI timely completed 100 percent (33) of its pre-complaint counselings. The number of pre-complaint counselings completed in FY 2021 (33) is a 23 percent decrease from the number of pre-complaint counselings completed in FY 2020 (43), which is due to the fewer number of informal complaints initiated in FY 2021.

USSS had 21 formal complaints filed in FY 2021, which is a decrease from the 28 formal complaints filed in FY 2020. In the area of investigations, USSS experienced increases in both the number completed and the number that were timely completed. In FY 2021, USSS completed 29 investigations, which is three more than the 26 completed in FY 2020. USSS timely completed 25 investigations in FY 2021, or 86 percent, which is substantially higher than the 13 (50 percent) timely completed investigations in FY 2020. USSS's average processing days for investigations in FY 2021 was 176 days, which is a 38 day decrease from the 214 average processing days in FY 2020.

### ***Services and Proactive Engagement***

During FY 2021, the USSS continued to encourage participation in the Early Dispute Resolution Program for individuals involved in EEO and non EEO-related conflicts. EDI continued to encourage participation in mediation during the complaint process. Informational materials (brochures) regarding mediation were distributed to the general workforce and to employees during the pre-complaint intake process. This information is also made available to all employees during the New Employee Orientation training, First Line Supervisor training, as well as during the Special Agent/Uniformed Division Trainee instructional training courses. As a proactive measure, EDI continued its partnership with the Office of Chief Counsel in providing education and training to ensure the workforce is informed on the complaint process, reasonable accommodation process, and the Anti-Harassment Program.

During FY 2021, the EDI staff conducted several EEO-related training modules, which included training on the EEO Process, Anti-Harassment, Reasonable Accommodation, Religious Accommodation, and other pertinent information regarding employee support services. Training was presented to the following audiences:

- 56 Supervisors received training by participating in the First Line Supervisor's Training Course, which is a two-day training that is mandatory for all new supervisors within their first year of being a supervisor.
- 200 employees received training by participating in one of the 12 sessions of "EEO and You" briefings, which provided employees a refresher on EEO and Anti-Harassment laws and regulations.

- 267 Special Agent and 240 Uniformed Division trainees received EEO training as part of their specialized training program.
- 60 Uniformed Division leaders received training by participating in ad-hoc training sessions highlighting EEO and Anti-Harassment laws and regulations.
- 39 new supervisors and managers received training by participating in the New Supervisor/Manager Orientation, which is a one-day training that is mandatory for all new supervisors and managers within their first 90 days of their hire or promotion date.
- 5,634 employees completed mandatory training entitled “Preventing and Addressing Workplace Harassment.”

In addition to the above training, all USSS employees are required to complete EEO-related online training through the agency’s Performance and Learning Management System.

## **CONCLUSION**

The information in this report highlights the successes and challenges of the Department's EEO program during FY 2021. Despite the ongoing COVID-19 pandemic, an impressive level of collaboration across the Department's EEO programs continued through initiatives such as the EEO Directors' Council Strategic Plan working groups, the ADR Shared Neutrals Program, continued use of the ROI Feedback Tool, and regular engagement through the quarterly Complaint Manager meetings.

Due to our commitment, resilience, and collaboration, the Department's EEO program continues to press forward and strengthen.

FY2021 Annual No FEAR Act Report – Federal Court Cases

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Department of Homeland Security

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***Number of Cases Filed in Federal Court,  
Pending or Resolved Under Section 724.302(a)(1)***

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Number of cases filed, pending, or resolved	138	28	3	40	0	4

***Number of Cases and Reimbursement by Status  
Under Section 724.302(a)(1-2)***

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Cases pending hearing	68	24	2	33	1	4
Cases heard/pending decision	45	2	0	2	0	1
Decision issued in favor of the Complainant (either in its entirety or partial)	0	0	0	0	0	0
Decision issued in favor of the Agency	33	7	1	7	0	2
Arbitration/Mediation	1	0	0	0	0	0
Settlement	10	1	0	1	0	1
Appeal	11	1	0	3	0	0
Remand	1	0	0	0	0	0
Amount of Reimbursement	\$1,233,674.40	\$30,000.00	\$0	\$316,982.92	\$0	\$50,000.00
Amount of Reimbursement for Attorney	\$51,825.60	\$0	\$0	\$107,508.15	\$0	\$0

Fees						
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***Number of Employees Disciplined in Cases Under Section 724.302(a)(3)***

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Reprimand	0	0	0	0	0	0
Suspension without pay	0	0	0	0	0	0
Reduction of grade or pay	0	0	0	0	0	0
Removal	0	0	0	1	0	0

***Number of Employees Disciplined, Whether or Not in Connection with Federal Cases Under Section 724.302(a)(5) (i.e. Including EEO Administrative Cases)***

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Reprimand	1	0	0	0	0	0
Suspension without pay	1	1	0	1	0	0
Reduction of grade or pay	0	0	0	0	0	0
Removal	0	0	0	1	0	0

# Equal Employment Opportunity Data Posted Pursuant to the No Fear Act: DHS

For 4th Quarter 2021 for period ending September 30, 2021

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2021Thru09-30
	2016	2017	2018	2019	2020	
Number of Complaints Filed	1345	1255	1482	1275	1288	1121
Number of Complainants	1295	1206	1423	1236	1221	1062
Repeat Filers	43	40	54	36	59	55
Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2021Thru09-30
	2016	2017	2018	2019	2020	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Race	463	459	538	455	505	398
Color	176	193	202	161	207	144
Religion	64	61	69	53	57	62
Reprisal	720	640	765	670	716	612
Sex	476	459	515	459	501	392
PDA	23	14	18	18	15	15
National Origin	222	207	269	181	222	202



Equal Pay Act	4	9	4	2	2	4
Age	426	391	415	386	432	338
Disability	356	342	423	411	418	328
Genetics	10	5	6	5	7	7
Non-EEO	79	105	87	66	88	102
<b>Complaints by Issue</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2021Thru09-30</b>
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	
Appointment/Hire	91	89	103	97	110	66
Assignment of Duties	145	142	223	145	190	202
Awards	27	24	23	19	24	15
Conversion to Full Time/Perm Status	3	1	0	0	0	0
<b>Disciplinary Action</b>						
Demotion	12	12	14	11	10	12
Reprimand	58	77	78	56	71	51
Suspension	88	90	88	66	73	58
Removal	56	38	39	38	22	34
Duty Hours	42	24	26	20	26	30
Perf. Eval./ Appraisal	143	146	147	131	134	123
Examination/Test	16	6	27	14	11	6
<b>Harassment</b>						
Non-Sexual	614	522	642	621	692	542
Sexual	38	46	68	47	52	31
Medical Examination	33	16	33	37	29	15

Pay including overtime	49	64	44	51	58	45
Promotion/Non-Selection	309	292	241	219	200	163
<b>Reassignment</b>						
Denied	38	34	34	24	24	16
Directed	48	54	53	42	39	27
Reasonable Accommodation Disability	96	103	115	132	125	90
Reinstatement	5	2	7	2	2	2
Religious Accommodation	11	9	12	7	9	12
Retirement	4	5	4	8	10	11
Sex-Stereotyping	2	1	1	0	1	0
Telework	21	21	19	14	30	22
Termination	94	112	157	131	142	103
Terms/Conditions of Employment	138	172	238	171	131	110
Time and Attendance	88	101	109	104	108	127
Training	48	59	35	40	40	25
<b>Other</b>						
<b>Processing Time</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2021Thru09-30</b>
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	
Complaints pending during fiscal year						
Average number of days in investigation	294.24	249.03	274.07	287.96	241.44	276.41
Average number of days in final action	103.58	138.46	108.46	124.52	160.89	200.66
Complaint pending during fiscal year where hearing was requested						
Average number of days in investigation	287.81	240.18	252.38	271.05	226.39	251.98

Average number of days in final action	57.94	71.65	66.27	72.65	88.26	83.52						
Complaint pending during fiscal year where hearing was not requested												
Average number of days in investigation	296.04	262.72	307.43	309.71	271.93	311.19						
Average number of days in final action	164.68	194.28	178.38	284.60	347.92	367.47						
<b>Complaints Dismissed by Agency</b>	<b>Comparative Data</b>											
	<b>Previous Fiscal Year Data</b>										<b>2021Thru09-30</b>	
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>							
Total Complaints Dismissed by Agency	58	109	183	95	108	82						
Average days pending prior to dismissal	217	213	278	190	321	233						
<b>Complaints Withdrawn by Complainants</b>												
Total Complaints Withdrawn by Complainants	140	120	130	148	139	108						
<b>Total Final Agency Actions Finding Discrimination</b>	<b>Comparative Data</b>											
	<b>Previous Fiscal Year Data</b>										<b>2021Thru09-30</b>	
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>							
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
Total Number Findings	18		13		11		19		46		10	
Without Hearing	11	61	11	85	4	36	15	79	21	46	6	60
With Hearing	7	39	2	15	7	64	4	21	25	54	4	40

Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2021 Thru 09-30	
	2016		2017		2018		2019		2020			
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	#	%	#	%	#	%	#	%	#	%	#	%
<b>Total Number Findings</b>	16		11		8		15		44		10	
Race	3	19	1	9	2	25	6	40	10	23	1	10
Color	1	6	0	0	2	25	1	7	4	9	0	0
Religion	1	6	0	0	0	0	0	0	0	0	0	0
Reprisal	8	50	6	55	8	100	5	33	22	50	3	30
Sex	12	75	4	36	2	25	5	33	14	32	3	30
PDA	0	0	0	0	0	0	0	0	1	2	0	0
National Origin	4	25	1	9	1	13	0	0	9	20	1	10
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	2	13	3	27	0	0	5	33	13	30	1	10
Disability	4	25	4	36	4	50	4	27	16	36	5	50
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	2	13	0	0	0	0	0	0	4	9	0	0
<b>Findings After Hearing</b>	7		2		7		4		25		4	
Race	2	29	1	50	2	29	1	25	4	16	0	0
Color	0	0	0	0	2	29	0	0	1	4	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	6	86	1	50	7	100	2	50	14	56	1	25

Sex	6	86	0	0	2	29	1	25	7	28	1	25
PDA	0	0	0	0	0	0	0	0	1	4	0	0
National Origin	3	43	0	0	1	14	0	0	6	24	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	2	29	0	0	0	0	0	0	8	32	0	0
Disability	2	29	0	0	4	57	1	25	11	44	2	50
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	1	14	0	0	0	0	0	0	2	8	0	0
<b>Findings Without Hearing</b>	9		9		1		11		19		6	
Race	1	11	0	0	0	0	5	45	6	32	1	17
Color	1	11	0	0	0	0	1	9	3	16	0	0
Religion	1	11	0	0	0	0	0	0	0	0	0	0
Reprisal	2	22	5	56	1	100	3	27	8	42	2	33
Sex	6	67	4	44	0	0	4	36	7	37	2	33
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	1	11	1	11	0	0	0	0	3	16	1	17
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	3	33	0	0	5	45	5	26	1	17
Disability	2	22	4	44	0	0	3	27	5	26	3	50
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	1	11	0	0	0	0	0	0	2	11	0	0

<b>Findings of Discrimination Rendered by Issue</b>	<b>Comparative Data</b>											
	<b>Previous Fiscal Year Data</b>										<b>2021 Thru 09-30</b>	
	<b>2016</b>		<b>2017</b>		<b>2018</b>		<b>2019</b>		<b>2020</b>		<b>#</b>	<b>%</b>
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>		
<b>Total Number Findings</b>	16		11		8		15		42		10	
Appointment/Hire	1	6	0	0	0	0	1	7	3	7	0	0
Assignment of Duties	2	13	3	27	0	0	1	7	4	10	1	10
Awards	1	6	0	0	0	0	1	7	2	5	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0
<b>Disciplinary Action</b>												
Demotion	0	0	0	0	0	0	0	0	0	0	1	10
Reprimand	1	6	0	0	0	0	0	0	1	2	0	0
Suspension	0	0	0	0	0	0	1	7	1	2	0	0
Removal	0	0	0	0	1	13	2	13	1	2	1	10
Duty Hours	1	6	0	0	0	0	0	0	0	0	0	0
Perf. Eval./ Appraisal	0	0	0	0	1	13	2	13	8	19	0	0
Examination/Test	0	0	1	9	0	0	0	0	0	0	0	0
<b>Harassment</b>												
Non-Sexual	8	50	3	27	3	38	6	40	19	45	3	30
Sexual	4	25	0	0	1	13	0	0	5	12	1	10
Medical Examination	0	0	0	0	1	13	0	0	2	5	0	0
Pay including overtime	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	4	25	2	18	1	13	2	13	9	21	0	0
<b>Reassignment</b>												

Denied	0	0	0	0	1	13	0	0	1	2	0	0
Directed	1	6	0	0	1	13	1	7	5	12	0	0
Reasonable Accommodation Disability	2	13	1	9	0	0	2	13	2	5	3	30
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	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	2	5	0	0
Termination	0	0	1	9	0	0	1	7	0	0	0	0
Terms/Conditions of Employment	1	6	3	27	1	13	3	20	5	12	1	10
Time and Attendance	1	6	0	0	0	0	1	7	1	2	1	10
Training	0	0	0	0	0	0	1	7	0	0	0	0
Other - User Define												
<b>Findings After Hearing</b>	7		2		7		4		24		4	
Appointment/Hire	0	0	0	0	0	0	0	0	3	13	0	0
Assignment of Duties	1	14	0	0	0	0	1	25	3	13	0	0
Awards	1	14	0	0	0	0	1	25	1	4	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	1	25
Reprimand	1	14	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	1	4	0	0





Other - User Define												
<b>Findings Without Hearing</b>	9		9		1		11		18		6	
Appointment/Hire	1	11	0	0	0	0	1	9	0	0	0	0
Assignment of Duties	1	11	3	33	0	0	0	0	1	6	1	17
Awards	0	0	0	0	0	0	0	0	1	6	0	0
Conversion to Full Time/Perm Status	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	1	6	0	0
Suspension	0	0	0	0	0	0	1	9	0	0	0	0
Removal	0	0	0	0	0	0	1	9	0	0	1	17
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Perf. Eval./ Appraisal	0	0	0	0	0	0	2	18	3	17	0	0
Examination/Test	0	0	1	11	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	4	44	3	33	0	0	4	36	7	39	3	50
Sexual	2	22	0	0	0	0	0	0	4	22	1	17
Medical Examination	0	0	0	0	0	0	0	0	1	6	0	0
Pay including overtime	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	1	11	0	0	1	100	1	9	5	28	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	1	11	0	0	0	0	1	9	2	11	0	0

Reasonable Accommodation Disability	1	11	1	11	0	0	2	18	1	6	1	17
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Religious Accommodation	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	1	6	0	0
Termination	0	0	1	11	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	3	33	0	0	3	27	2	11	0	0
Time and Attendance	0	0	0	0	0	0	0	0	1	6	1	17
Training	0	0	0	0	0	0	1	9	0	0	0	0
Other - User Define												
<b>Pending Complaints Filed in Previous Fiscal Years by Status</b>	<b>Comparative Data</b>							<b>2021Thru09-30</b>				
	<b>Previous Fiscal Year Data</b>											
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>							
Total complaints from previous Fiscal Years	1656	1982	1964	2057	1937	1627						
Total Complainants	1529	1807	1768	1877	1790	1496						
<b>Number complaints pending</b>												
Investigation	167	192	85	109	90	162						
ROI issued, pending Complainant's action	11	24	22	32	10	15						
Hearing	1194	1527	1521	1415	1241	1057						
Final Agency Action	230	228	305	486	560	369						
Appeal with EEOC Office of Federal Operations	669	754	923	1136	1290	1408						

<b>Complaint Investigations</b>	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					<b>2021 Thru 09-30</b>
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	
Pending Complaints Where Investigations Exceed Required Time Frames	189	204	163	126	110	239

# **GLOSSARY OF TERMS**

ADR	Alternative Dispute Resolution
AJ	Administrative Judge
CBP	U.S. Customs and Border Protection
CMAS	Complaints Management and Adjudication Section
CRCL	Office for Civil Rights and Civil Liberties
EEOC	U.S. Equal Employment Opportunity Commission
FAD	Final Agency Decision
FEMA	Federal Emergency Management Agency
FLETC	Federal Law Enforcement Training Centers
FO	Final Order
HQ EEO	Headquarters EEO Office
ICE	U.S. Immigration and Customs Enforcement
TSA	Transportation Security Administration
USCIS	U.S. Citizenship and Immigration Services
USCG	U.S. Coast Guard
USSS	U.S. Secret Service